BEYOND SILICON VALLEY: EXPANDING ACCESS TO CAPITAL ACROSS AMERICA

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

MARCH 25, 2025

Serial No. 119–10

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C O N T E N T S

TUESDAY, MARCH 25, 2025

BEYOND SILICON VALLEY: EXPANDING ACCESS TO CAPITAL ACROSS AMERICA

Tuesday, March 25, 2025

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:02 a.m., in room 2128, Rayburn House Office Building, Hon. French Hill [chairman of the committee] presiding.

Present: Representatives Hill, Lucas, Sessions, Huizenga, Wagner, Barr, Williams of Texas, Loudermilk, Davidson, Rose, Steil, Timmons, Stutzman, Norman, Meuser, Kim, Donalds, Garbarino, Fitzgerald, Flood, Lawler, De La Cruz, Ogles, Nunn, McClain, Downing, Haridopolos, Moore, Waters, Velázquez, Sherman, Lynch, Green, Cleaver, Foster, Vargas, Gonzalez, Casten, Pressley, Tlaib, Garcia, Williams of Georgia, Bynum, and Liccardo.

Chairman HILL. The Committee on Financial Services will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time.

This hearing is entitled "Beyond Silicon Valley: Expanding Access to Capital Across America."

Without objection, all members will have 5 legislative days within which to submit extraneous materials to the chair for inclusion in the record.

I now recognize myself for 4 minutes for an opening statement.

OPENING STATMENT OF HON. FRENCH HILL, CHAIRMAN OF THE COMMITTEE ON FINANACIAL SERVICES, A U.S. REPRESENTATIVE FROM ARKANSAS

Good morning. I want to welcome our members today to a hearing on expanding access to capital, and I really look forward to this great panel's testimony. Over my financial career prior to entering Congress in Arkansas and Texas, I have seen firsthand the incredible entrepreneurial talent that is alive and well outside traditional venture and financial hubs like New York or San Francisco. Across our country, Americans are building companies that can drive our economy forward, yet too often, these promising startups lack access to local advice and capital that they need to grow scale and succeed.

Right now, virtually all venture funding pours into just a few coastal cities, leaving the innovators and entrepreneurs of flyover country often overlooked and underfunded. When capital circulates in this geographically concentrated eddy, investors in the economy,

at large, miss out on big ideas, innovations, and economic breakthroughs that can and do emerge from the labs, kitchen tables, and garages in Arkansas, Nebraska, or Ohio. Talent and ambition do not stop at State borders, and neither should investments. In Little Rock, we have seen companies like Apptegy which started from scratch and grew into a powerhouse by providing communication tools to schools nationwide. That is the innovation born in Arkansas, benefiting students everywhere. It is proof that when investments are made outside of traditional hubs, incredible things can happen.

At the same time, the number of public companies in the United States has declined dramatically from over 7,000 30 years ago to fewer than 4,000 today. In my view, threatened litigation, excessive costs, and regulatory burdens have made it much harder for small businesses to go public, shutting out entrepreneurs and everyday investors alike. We must ensure that local incubators and small business investors have the support they need, and that those aspiring risk-taking teams, regardless of where they are based, can succeed.

Our capital markets should work for everyone. That means reducing barriers for startups to access funding, incentivizing investment in regional businesses, and reforming outdated regulations that improve access to growth capital to ensure that a public offering is more of a viable option once again. By incentivizing investments in regional startups, supporting local incubators, and streamlining rules, we can create an environment where more companies can scale, thrive, and ultimately become public companies. For the means that we are ensuring that we are not just creating opportunities for companies to grow, but also expanding investment opportunities for Americans that want to be part of that growth.

For too long, investment opportunities, particularly in private markets, have been reserved for a select few. By broadening access, we create more avenues for wealth creation, allowing everyday investors to share in the long-term prosperity that comes from innovation. Modernizing our securities laws can help break down these barriers so that every founder, regardless of background or location, has the resources to support and build the next great American success story. The policies we are discussing today will not only expand across access to capital, they will strengthen our economy and create lasting opportunities for millions of Americans.

With that I yield back the balance of my time, and I recognize the ranking member of our committee, Ms. Waters, for 4 minutes for an opening statement.

OPENING STATEMENT OF HON. MAXINE WATERS, RANKING MEMBER OF THE COMMITTEE ON FINANCIAL SERVICES, A U.S. REPRESENTATIVE FROM CALIFORNIA

Ms. WATERS. Thank you very much, Mr. Hill. Before I begin, I want to comment about the outrageous national security breach reported yesterday. It is my understanding that the details of the attack were shared with someone who was not cleared, putting the lives of those involved and the whole mission in jeopardy. This latest breach follows unlawful access to the critical payment systems and the data of Americans. Mr. Chair, I hope you agree that

enough is enough. I wish we had more positive information to report on, but the incompetence of this administration is glaring.

With that, I appreciate today's hearing on capital formation. The reality is that our economic outlook is bleak and is entirely of the President's own doing. Mr. Chair, I want to take a moment to read excerpts that highlight the magnitude of the economic crisis created by Donald Trump. From Reuters, "More than $4 trillion in stock market values has evaporated since Trump took office." From the Financial Times, "Economists expect Trump's policies to slow economic growth and fuel higher inflation." From Inc. Magazine, "Trump's Tariffs Are Causing Some Startups to Scrap Their IPOs." From Reuters, JPMorgan's Chief Global Economist says the risk of a recession will rise to "probably 50 percent or above when Trump's April 2 tariffs kick in."

This is the State of our economy. As a result of Trump's disastrous policies and dumb trade wars, our stock markets are in chaos, and the strong economy he inherited from President Biden is no more. Right now, instead of expanding their business or investing in their workers, business owners are dealing with a Trump-induced recession and are panicking at the thought of higher prices for goods and raw materials from overseas. All of this is slowing hiring, killing innovation, and making it harder for American companies to compete globally.

Trump's economic policies are not just hurting American businesses and workers. No, Trump is an equal opportunity destroyer of finances. People preparing to retire, people he has forced to retire, and the people he has wrongfully fired have all seen their nest eggs and hard-earned savings reduced to rubble. Instead of displaying leadership, competence, and care, Trump has been golfing at Mar-a-Lago, promoting his own meme coin, and filming Tesla ads actually on the White House lawn for the richest man on earth, Elon Musk. Unfortunately, that is not all. This month, Trump signed an executive order gutting the Community Development Financial Institutions Fund.

Mr. Chair, for over 30 years, Community Development Financial Institutions (CDFIs) have been strongly supported by Democrats and Republicans. We have had them in our districts and have all seen firsthand the critical work they do in supporting small businesses in underserved communities. Eliminating CDFIs because they serve the underserved is a Make America Great Again (MAGA) equivalent of cutting off your nose to spite your face. The same executive order would also gut the Minority Business Development Agency. Make no mistake, these cuts to working-class families in underserved communities and the small businesses that they serve are all designed to pay for the only thing the Trump Administration actually cares about: tax cuts for billionaires.

Chairman HILL. I thank the gentlewoman.

Ms. WATER. I yield back.

Chairman HILL. She yields back. The chair recognizes the Chair of the Subcommittee on Capital Markets, Mrs. Wagner from Missouri, for a 1-minute opening statement.

STATEMENT OF HON. ANN WAGNER, CHAIRWOMAN OF THE SUBCOMMITTEE ON CAPITAL MARKETS, A U.S. REPRESENTATIVE FROM MISSOURI

Mrs. WAGNER. I thank you, Mr. Chairman, and you know what? I could not be more optimistic about our economy and the direction that our country is moving. As the chairman noted, talent and innovation are not confined to the coast, and investments should not be either. This hearing is about giving hardworking, everyday Americans access to the kinds of high-growth opportunities that for too long have been reserved for the wealthy, so Congress can help main street investors invest and save for the future. We have done this before, Mr. Chairman. The bipartisan Jumpstart Our Business Startups (JOBS) Act showed how smart, balanced reforms can open up markets without sacrificing investor protections. Now, it is time to build on that success by helping more companies go public, expanding access to capital for all and creating real wealth building opportunities for millions of main street investors in our congressional districts, the second congressional district of Missouri and the Nation. Let us cut the red tape from the rules and strengthen our markets because more opportunity means a stronger, better economy for all, and I yield back.

Chairman HILL. The gentlewoman yields back. The chair recognizes the Ranking Member of the Subcommittee on Capital Markets, Mr. Sherman, for a 1-minute opening statement.

STATEMENT OF HON. BRAD SHERMAN, RANKING MEMBER OF THE SUBCOMMITTEE ON CAPITAL MARKETS, A U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. SHERMAN. I join the ranking member in noting that everyone on that signal chat knew they were exchanging war plans on a signal chat, not a system for classified information. Then they added a journalist to the chat. Then the Secretary of State lied about it, only to be corrected by Trump's National Security Council.

The Securities Exchange Commission (SEC) oversees the largest capital markets in the world, in the history of the world. We are dealing with a hundred trillion dollars of securities. Our entire economy, the world's economy, is dependent upon it, so let us just let some guy, like, big balls take a whack at it. Well, he did: $50,000 payout for everybody at the SEC who leaves. What gaps does that have in enforcement? What gaps does that have in the ability to approve a registration of securities? We will not know because we do not know who takes that buyout, but we do know that the people taking the buyout are the ones that the private sector values the most, and they are going to make a lot of money in the private sector. I yield back.

Chairman HILL. The gentleman yields back. Today, we welcome the testimony of Steve Case. Mr. Case is the Chairman and CEO of Revolution, an investment firm backing entrepreneurs at every stage of their development. His entrepreneurial career began in 1985 when it co-founded America Online, AOL. Ms. Candice Matthews Brackeen is the General Partner of Lightship Capital, a Cincinnati-based venture capital fund that invests in companies throughout the mid-west. Bill Newell: Mr. Newell is the Senior Business Advisor and former CEO of Sutro Biopharma, a biotech

firm focused on the research, development, and manufacturing of next-generation cancer medicines. Joel Trotter: Mr. Trotter is the Co-Founder of Latham & Watkins' national office. He was the principal author of the Initial Public Offering (IPO)-related provisions in the JOBS Act of 2012. Amanda Senn: Ms. Senn is the Director of the Alabama Securities Commission. We welcome all of you. Thanks for taking time to be with us.

You will be recognized for 5 minutes to give an oral presentation of your testimony, and without objection, your written testimony will be made part of the record. Mr. Case, you are recognized for 5 minutes.

STATEMENT OF STEVE CASE, CHAIRMAN AND CEO, REVOLUTION LLC

Mr. CASE. Good morning, Chairman Hill and Ranking Member Waters and members of this U.S. House Committee on Financial Services. It is my pleasure to be here to discuss the future of entrepreneurship in America. Indeed, it warms my heart to be participating in a House hearing titled, "Beyond Silicon Valley: Expanding Access to Capital Across America." I want to start by acknowledging that for decades, despite party differences, legislation to encourage entrepreneurship and expand access to capital for entrepreneurs has largely received bipartisan support. Today's hearing underscores this committee's commitment to prioritizing entrepreneurship and innovation, and I thank you for your leadership in making this a shared national effort.

Four decades ago, I co-founded America Online, AOL, a company that helped usher in the internet revolution. AOL was the first internet company to go public, and at its peak, nearly half of all internet users went through the platform. After AOL, I dedicated myself to backing the next generation of entrepreneurs as Founder, Chairman, and CEO of Revolution. Based here in Washington, DC, Revolution's mission is to build disruptive, innovative companies that upend age-old industries with a unique focus on startups based outside of the coastal tech hubs.

Startups are indeed the lifeblood of our economy, driving innovation, creating jobs, and fueling growth in red and blue communities nationwide. Indeed, new businesses play a significant role in net new job creation, according to data from the National Bureau of Economic Research, yet entrepreneurs, especially those outside of Silicon Valley, Boston and New York, still face significant challenges in accessing the capital they need to start and scale. In 2017, when Revolution launched our Rise of the Rest Seed Fund, led at the time by J.D. Vance, who is now our Vice President, roughly 75 percent of venture capital flowed to just three States—California, Massachusetts, and New York—with 47 States left to share the remaining 25 percent. We have made some progress, but, unfortunately, the split remains largely the same today.

The Federal Government can help close this gap, and there is strong precedent to do so. In 2011, I was part of the President's Council on Jobs and Competitiveness with a number of leaders from finance and tech. Our proposals eventually became the bipartisan Jumpstart Our Business Startups Act, the JOBS Act, which passed the House by a vote of 390 to 23. The JOBS Act included,

as you know, three key goals: first, make it easier to launch and invest in startups via crowdfunding; second, allow those seeking investment to make general solicitation appeals; and third, create an IPO onramp for young companies to make going public a little easier.

Given the success of the JOBS Act, as well as the outsized role startups play in job creation and economic growth, it makes sense for this committee to explore additional ways to expand access to capital for entrepreneurs and enhance the ability of more investors to participate in private markets. First, on the IPO front, while late-stage companies have had access to growth capital in recent years, that funding option is not guaranteed, and more companies may need to consider going public at an earlier stage in their development, which makes having a viable path for IPOs critical. Additionally, Revolution, partnering with PitchBook, found that between 2011 and 2021, more than 1,400 new venture firms emerged from smaller ecosystems across the country. These firms are crucial because they are much more likely to invest in local and regional startups. This committee can take steps to support and sustain these regional funds, including by expanding the pool of potential investors and by streamlining the regulations that apply to up-and-coming venture funds.

To be clear, none of the reforms proposed should come at the expense of appropriate investor protection, which is, of course, important, but at the same time, we need to make sure we strike an appropriate balance. If we want more capital funding more entrepreneurs, we need to make some changes, some of which could create some risk. At the same time, if we make no changes and we just maintain the status quo, we are, in fact, constraining the pool of investors and of entrepreneurs that we need to ensure that we continue to have a robust innovation economy, not just on the coast, but across the country.

We all know that talent exists everywhere. This committee is in a unique position to pass legislation to support the next generation of entrepreneurs and investors and create more opportunity for places that often feel left behind. I applaud the efforts you are taking today to level the playing field and, as we approach the 250th anniversary of our Nation next year, empower entrepreneurs nationwide to write the next chapter of the American story. Thank you for the opportunity to join you today. I look forward to your questions.

[The prepared statement of Mr. Case follows:]

Testimony of Steve Case, Chairman and CEO, Revolution

Before the U.S. House Committee on Financial Services

Hearing on "Beyond Silicon Valley: Expanding Access to Capital Across America"

March 25, 2025

Chairman Hill, Ranking Member Waters and members of the U.S. House Committee on Financial Services, it is a pleasure to be here to discuss the future of entrepreneurship in America.

I want to start by acknowledging that, for decades, despite party differences, legislation to encourage entrepreneurship and expand access to capital for entrepreneurs has largely received bipartisan support. I've been grateful to see that support firsthand throughout my career—whether through the passage of the JOBS Act, the creation of Opportunity Zones, or, most recently, the Regional Technology and Innovation Hubs (Tech Hubs) initiative[1]. Each of these represents a significant governmental effort to strengthen American competitiveness by affirming the idea that cities can be renewed and rise again if they develop a vibrant startup culture. Today's hearing underscores this committee's commitment to prioritizing entrepreneurship and innovation and I thank you for your leadership in making this a shared national effort.

Four decades ago, I co-founded America Online (AOL), a company that helped usher in the Internet revolution. AOL was the first internet company to go public and, at its peak, nearly half of all internet users in the U.S. were on the platform. Post-AOL, I dedicated myself to backing and supporting the next generation of entrepreneurs as Founder, Chairman, and CEO of Revolution.[2] Based in Washington, D.C., Revolution's mission is to build disruptive, innovative companies that upend age-old industries, with a unique focus on startups based outside of the coastal tech hubs. Companies in our portfolio are tackling supply chain and logistic challenges, making healthy food options more widely available, innovating in the retail and consumer space, disrupting the healthcare system, leading the way in digital sports and entertainment, and more. We believe great companies can start and scale anywhere, aided by the fact that startups in emerging venture communities are often more capital efficient, offer a lower cost of doing business, and attract talent looking for better quality of life.

This discussion is especially meaningful as our country approaches its semi quincentennial next July. I often say that America was once a startup—and a fragile one at that. Our nation became the global economic leader it is today because of the countless entrepreneurs who had

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[1] https://thehill.com/opinion/finance/3460952-lessons-from-a-bipartisan-economic-triumph-10-years-later/; https://thehill.com/opinion/technology/550262-with-federal-support-the-us-can-recreate-silicon-valley-success-nationwide; https://www.eda.gov/funding/programs/regional-technology-and-innovation-hubs

[2] https://revolution.com/

transformative ideas and found fertile ground--fertile, in part, because of policymakers who cultivated an environment for innovation—to bring them to life.

Startups are the lifeblood of our economy, driving innovation, creating jobs, and fueling growth in red and blue communities nationwide. Indeed, new businesses play a significant role in net-new job creation in the U.S. according to data from the National Bureau of Economic Research[3]. Yet entrepreneurs—especially those outside Silicon Valley, Boston, or New York—still face significant challenges in accessing the capital needed to scale. That's why the reforms we're discussing today are so important. They have the potential to ensure that great ideas aren't left behind but instead can take root and grow in communities across the country—not just in traditional tech hubs.

When I started AOL, not far from here in the fields of Northern Virginia, most of our venture dollars came from investors in Silicon Valley and New York. Our lawyers were from Boston because Washington, D.C.—the city with the most lawyers per capita in the country—did not yet have attorneys with tech startup experience. D.C. has since come a long way, and so have other cities, but they have not come far enough to fully compete with the concentration of capital, talent, and celebrated risk-taking found in Silicon Valley.

At the same time, industries that once powered cities in the middle of the country have suffered, leading to an outflow of potential founders and tech employees and creating what I call the "possibility gap." In tech hubs, people view progress as an upward trajectory—there is a sense of infinite possibility. In many other cities across the U.S., the picture is much more complicated, and parents often worry about whether continued livelihoods exist for their families in their hometowns.

This is not to say that these cities have opted out. On the contrary. For the last decade, I have been getting out of my office and onto a bus to see what's going on in startup ecosystems across the country.[4] Revolution's Rise of the Rest initiative has visited dozens upon dozens of startup ecosystems across the country and backed more than 200 seed stage companies in more than 100 cities. We've made these investments because we are constantly impressed by the remarkable talent and groundbreaking innovations emerging in these communities – where fresh ideas intersect with deep, legacy expertise.

Take Detroit, for example. It was the Silicon Valley of its day, churning out the country's most transformative technology: the automobile. When our team first visited its startup community in 2014, the city had just declared bankruptcy, and people were not betting on an innovation-driven future. Fast forward to today and Detroit recently celebrated the opening of Michigan Central, a massive tech campus focused on mobility and centered around a once-abandoned grand train station restored by a billion-dollar investment from Ford.[5]

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[3] https://www.nber.org/system/files/working_papers/w16300/w16300.pdf
[4] https://www.businessinsider.com/steve-case-rise-of-the-rest-revolution-startup-culture-2018-5
[5] https://www.crainsdetroit.com/real-estate/ford-michigan-central-train-station-opens-corktown

I can share similar stories from nearly every city in the country. In Atlanta, Hermeus, is building military aircraft engines with the potential to reach hypersonic speeds as fast as Mach 5. They have benefited from the presence of Georgia Tech and its graduates nearby. And then there is Tempus, a company founded in Chicago, to lead the way in the application of AI in healthcare. AcreTrader, founded in Fayetteville by an Arkansan who boomeranged home after a stint working for a Bay Area hedge fund, is reshaping the market for farmland by offering critical data on land and facilitating investments. Finally, Anduril, a company we backed in its infancy, just announced that it is opening a new facility in Ohio with 4,000 new jobs to start. These are great stories. I have more like them, but not nearly enough.

In 2017, when Revolution launched our Rise of the Rest Seed Fund[6], led at the time by J.D. Vance, who is now our Vice President, roughly 75% of venture capital flowed to just three states: California, Massachusetts, and New York, with 47 states left to share the remaining 25%. We've made some progress, but unfortunately the split remains largely the same today.[7]

The federal government can help close this gap and there is strong precedent for them to do so. In 2011, I was part of the President's Council on Jobs and Competitiveness with several other leaders in finance and tech.[8] Our proposals eventually became the bipartisan Jumpstart Our Business Startups (JOBS) Act, which passed the House by a vote of 390-23. The JOBS Act included three key goals: first, make it easier to launch and invest in start-ups via crowdfunding; second, venture firms and those seeking investment should be able to make general solicitation appeals via mass media; and third, create an IPO-on ramp to make going public easier with less onerous disclosures. In the wake of the JOBS Act, IPOs increased and, while crowdfunding proved viable, the SEC focused more on potential risks than opportunities and the robust provisions we recommended never fully came to fruition.

Given the outsized role startups play in job creation and economic growth, and the early success of the JOBS Act, there remains much we can do to expand access to capital while enhancing the ability of everyday investors to participate in private markets. This notion is reflected in many of the reforms put forth by members of this committee today.

First, while late-stage markets have had ample capital in recent years, the strength of these markets has limited the number of companies going public. However, that funding option is not guaranteed, and having a viable path for IPOs remains critical.

Additionally, Revolution—partnering with PitchBook—found that between 2011 and 2021, more than 1,400 new venture firms emerged from smaller ecosystems across the country[9]. These firms are crucial because they are more likely to invest most of their dollars in local and regional startups. Investor incentives, expanding investment opportunities and the pool of

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[6] https://www.nytimes.com/2017/12/04/business/dealbook/midwest-start-ups.html
[7] https://nvca.org/document/q4-2024-pitchbook-nvca-venture-monitor-data-pack/
[8] https://obamawhitehouse.archives.gov/administration/advisory-boards/jobs-council
[9] https://revolution.com/beyond-silicon-valley-report/assets/files/Beyond-Silicon-Valley.pdf

individuals who can invest in those new funds, as well as reducing their compliance costs can help sustain these funds – especially in today's challenging venture capital environment.

To be clear, none of the reforms proposed should come at the expense of investor protection, but at the same time, we need to make sure our laws reflect the way technology and innovation has grown in this country and rival nations. The world is changing, and our securities laws must change with it.

Finally, I want to make a broader point about America's ability to compete globally—particularly with China. Continuing to win this competition and thereby protecting our national and economic security requires a multi-pronged approach. Aside from increasing access to capital for entrepreneurs, we must continue to invest in basic R&D, especially in our universities and national labs, most of which are in the middle of the country. They will play a key role in building the innovations of the future, and if we do this right, they can also serve as anchors for a new generation of tech hubs. You have already recognized the national security importance of developing tech hubs, which is why last year's *National Defense Authorization Act* included $500 million for tech hub initiative grants, and that bill was passed by wide margins in both chambers. There is a real risk that funding for these schools and critical research centers could continue to face cuts, which would undermine our innovation leadership and weaken our competitive edge in many sectors including healthcare and biotech, AI and quantum computing, and industries yet to be invented. Second, we must also continue to win the battle for talent. This means smarter immigration policies, like the proposed Heartland Visa[10]—a program to encourage highly skilled immigrants to live and work in designated areas with slow growth— to ensure the world's best and brightest can start and scale their businesses in America. Winning this global competition will require a national commitment to innovation that leaves no community behind. These ideas were formally put forth last year by NACIE (National Advisory Council on Innovation & Entrepreneurship), a group of extraordinary founders, investors, and academics focused on policy recommendations at the Commerce Department[11]. I was fortunate to chair this group twice.

We all know that talent is everywhere, but opportunity is often not. Rise of the Rest is based on a simple premise: cities can be renewed and rise again if they develop a vibrant startup culture. But they can only fully develop that culture if they have capital needed to scale. This Committee is in the unique position to pass legislation that will support capital access for entrepreneurs across the country. I applaud the efforts you are taking today to level the playing field and, as we approach our 250th anniversary, empower entrepreneurs nationwide to write the next chapter of the American story.

Thank you for the opportunity to join you today. I look forward to your questions.

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[10] https://eig.org/heartland-visas-a-policy-primer/
[11] https://www.eda.gov/sites/default/files/2024-02/NACIE_Competitiveness_Through_Entrepreneurship.pdf

Chairman HILL. Thank you, Mr. Case. Mr. Newell, you are now recognized for 5 minutes.

STATEMENT OF BILL NEWELL, SENIOR BUSINESS ADVISOR & FORMER CEO, SUTRO BIOPHARMA

Mr. NEWELL. Chairman Hill, Ranking Member Waters, and distinguished members of the House Committee on Financial Services, I am honored to appear before you today to discuss capital formation in the United States and the need for reforms that support entrepreneurs, protect investors, and promote innovation. My name is Bill Newell, and I am a Senior Business Advisor with Sutro Biopharma. I have been at Sutro since January 2009, until recently serving as its CEO. I also serve on the board of the Biotechnology Innovation Organization and chair BIO's Capital Formation Working Group. I want to commend the members of this committee for working on a bipartisan basis to improve access to capital through targeted reforms that protect investors and rightsize needed regulations. In the last Congress, this committee advanced a number of measures, and I hope that this Congress will be able to move that legislation into law.

Sutro Biopharma focuses on research, development, and manufacturing of next-generation cancer medicines. Our company is 22 years old. I was an employee in 19, and until recently, we had over 300 employees. In many ways, Sutro's corporate journey is a microcosm of the small biotech experience. We were initially financed by private investors, including venture capitalists. We IPO'd in 2018, benefiting from the JOBS Act of 2012 that makes it easier for small companies to go public. All told, Sutro has raised almost $1.6 billion in the company's history. That eyebrow-raising figure and our over 20-year company journey is, unfortunately, very typical of the small biotech experience in bringing a product to market.

Bringing a new medicine to approval is very, very expensive and risky. In this environment, many companies in our industry have had to downsize and end programs because of limited capital availability. Unfortunately, Sutro is no exception. It takes, on average, 10-and-a-half years for a candidate entering phase one to reach approval. The average research and development (R&D) cost to progress a new pharmaceutical from discovery to launch is $2.3 billion. Drug discovery is expensive. That is why access to capital is so crucial. We are in a constant race against time to develop a life-saving drug before funding runs out.

Thirteen years ago, this committee passed the Jumpstart Our Business Startups Act. The JOBS Act rightsized regulations for small and emerging growth companies, and we need to build off the success of the JOBS Act. Private markets play a crucial role in the growth and success of small biotech firms. A company often starts with just angel investors. Angels are the critical first dollars that bridge the valley of death for the biomedical innovation ecosystem. We need more angels, not fewer. The Equal Opportunity for all Investors Act expands the pool of angel investors. The current definition for accredited investor is not based on the assessment of investment risks, how to evaluate opportunities, or conduct due diligence. Rather, the current standard is entirely predicated on wealth and the ability to absorb total loss. This bill directs the SEC

to create a thorough accredited investor exam that allows more people who understand investing to participate in the marketplace.

We have the deepest, most liquid, and most competitive equity markets in the world, but fewer companies are going public these days for a variety of reasons. It is expensive to be a public company. Funds must be diverted away from critical research and development, clinical development, and scientists, and more toward regulatory filings, paperwork, quarterly reporting, and accountants and lawyers. The emerging growth company (EGC) designation is a critical reason why the JOBS Act was so successful at incentivizing IPOs, especially from smaller companies. The EGC's status currently lasts for 5 years. The 5-year timeline is simply too short for small biotechs. It is like having a tax system based on age instead of income, which makes no sense. The Helping Startups Continue to Grow Act allows for an additional 5-year extension of the EGC exemption.

The SEC needs to report on and revise the definition of "small business." The non-controversial Small Entity Update Act does just that. It passed this committee 42 to nothing last Congress and passed the House 367 to 8, so we appreciate the strong bipartisan support for this legislation. The SEC also needs to update their public float threshold triggers. Chairman Tim Scott included a provision in his bill, Empowering Main Street in America Act, that would require the SEC to revise thresholds for smaller reporting companies to account for a 12 months' rolling average of $700 million or less for their public float. By converting public floats to a rolling average trigger, it avoids surprise expenses for companies that may have a small temporary blip in their stock price.

In conclusion, I support transparent and reliable capital markets, both private and public, that allow companies to efficiently graduate or transition from funding structures while minimizing overlap and reporting and disclosure burdens. Thank you for inviting me to provide my perspective on these issues, and I welcome the committee's questions.

[The prepared statement of Mr. Newell follows:]

Written Testimony of

William J. Newell
Senior Business Advisor and former CEO, Sutro Biopharma

Before the U.S. House Committee on Financial Services

"Beyond Silicon Valley: Expanding Access to Capital Across America"

March 25, 2025

Introduction

Chairman Hill, Ranking Member Waters, and distinguished members of the House Committee on Financial Services, I am honored to appear before you today to discuss capital formation in the United States and the need for reforms that support entrepreneurs, protect investors, and promote innovation. My name is Bill Newell, and I am a Senior Business Advisor with Sutro Biopharma, Inc, a public biotech focused on clinical stage development of cancer therapeutics using protein engineering. I have been at Sutro since January 2009, until recently serving as its CEO, and prior to that I worked at another public biotech. I also serve on the Board of the Biotechnology Innovation Organization and chair BIO's Capital Formation Work Group.

I want to commend the members of this Committee for working on a bipartisan basis to improve access to capital through targeted reforms that protect investors and right size needed regulations. In the last Congress, this Committee advanced a number of measures to achieve that goal, and I hope that in this Congress, we will be able to move that legislation into law.

The Sutro Story

Sutro Biopharma focuses on research & development and manufacturing for next generation cancer medicines, primarily antibody-drug conjugates (ADCs). Our company is 22 years old, founded in 2003 with patent-protected technology licensed from Stanford University. I was employee number 19 and until recently we had over 300 employees. Sutro went public in 2018 and at one point Sutro had a market cap in excess of $1 billion. Like many U.S.-based biotechs, Sutro has seen substantial domestic job creation, with about 40% of our work force in or supporting our US-based cGMP manufacturing facility. We built and operate the world's only manufacturing facility utilizing cell-free protein synthesis technology at scale and producing clinical trial materials for Sutro and our partners.

In many ways, Sutro's corporate journey is a microcosm of the small biotech experience. We were initially financed by private investors, including venture capitalists. We raised Series A through E venture rounds totaling approximately $190 million. We IPO'd in 2018, benefiting from the JOBS Act of 2012 that made it easier for small companies to go public. So far, we have

raised approximately $535 million in public market offerings. In addition, collaborations with larger industry players have been essential to our growth. We have received approximately $1 billion in funding and reimbursements for R&D collaborations and/or licensing of product candidates from large and midsized biopharma companies. In addition, at various points in time, we have borrowed from venture lenders. All told, Sutro has raised almost $1.6 billion in the company's history. That eyebrow-raising figure and our over 20-year company journey is, unfortunately, very typical of the small biotech experience in bringing a product to market.

Also, like many biotechs, we have had our share of failures along the way. Four potential medicines have made it to clinic development stage, but then development was halted by us or our partners as they did not meet criteria for continued advancement. This is not unusual in our industry; only approximately 7.9% of products reaching clinical development stage are ever approved and given these high costs and low success rates, small biotech companies and their investors are particularly sensitive to the U.S. policy environment in which we operate.

In the last few years and even more so recently raising new funding for research and development of new medicines has been more challenging as investors have a more risk-off mentality. Bringing a new medicine to approval is very, very expensive and risky. In this environment many companies in our industry have had to downsize and end programs because of limited capital availability. Unfortunately, Sutro is no exception. Recently, our Board made the difficult decision to restructure the company, reduce headcount and deprioritize our ovarian cancer medicine which was in registration-directed clinical studies. Sutro is continuing its mission to bring new cancer medicines to patients but has taken a five year step back in that mission and is focusing resources on its preclinical development candidates. Today Sutro's market cap is under $100 million.

Ensuring a robust domestic biotechnology industry is rightfully recognized as a critical national security issue. In addition, it is also an economic juggernaut, with high growth potential and high wages across the country. Thus, it is critical that we implement and support policies that encourage our development and reexamine policies that deter investment and delay treatments. Accordingly, the focus of the remainder of my testimony is on the importance of prudent capital formation policies to support entrepreneurship and maintain our competitive advantages in what is becoming a very dynamic and aggressive global marketplace.

Access to Capital

It takes, on average, 10.5 years for a candidate entering Phase I to reach regulatory approval.[1] This figure doesn't take into account the lengthy pre-clinical work that needs to be completed before a company can move to clinical trials. A recent survey by Deloitte reported that for 2022-23, the average R&D cost to progress a new pharmaceutical from discovery to launch is $2.3

[1] Biotechnology Innovation Organization, Pharma Intelligence, Qualitative Life Sciences, Clinical Development Success Rates and Contributing Factors 2011-2020 (Feb. 2021), 3.

billion.[2] During this long development process, a substantial amount of the money spent by an emerging biotech on research and development comes directly from investors. Most biotechs remain pre-revenue through their entire time in the lab and the clinic.

Early-stage innovators do not have the luxury of funding their product development through sales revenue. Instead, the groundbreaking research that leads to a company's first product is funded by a series of financing rounds from angel investors, venture capitalists, pharmaceutical companies, and, eventually, public market investors.

Drug discovery is expensive. Scientists are expensive. Clinical trials are expensive. That's why access to capital is so crucial. We are in a constant race against time, to develop a life saving drug before funding dries out.

I've seen this company life cycle firsthand having been a corporate lawyer, and now having worked at multiple biotechs. Many companies do not survive from one financing round to another. Capital is essential. Luckily, Sutro was able to go public, thanks to the bipartisan work of this very Committee 13 years ago, when the Committee passed the Jumpstart Our Business Startups (JOBS) Act.

The JOBS Act rightsized regulations for smaller and emerging growth companies. We need to build off the success of the JOBS Act and ensure that American innovators have efficient access to broad pools of capital, that all pools of capital are liquid with various exit opportunities, and that reporting standards are updated to reflect current market standards.

Private Markets

Private markets play a crucial role in the growth and success of small biotech firms. These markets provide essential funding for early-stage companies that are pre-revenue. A company often starts with just angel investors.

What can Congress do to help smaller private companies?

Amend the Accredited Investor definition

The Equal Opportunity for All Investors Act, sponsored by Rep. Flood

Angels are the critical first dollars that bridge the 'valley of death' for the biomedical innovation ecosystem. We need more angels, not fewer. Without angel investors, the rate of innovation would significantly slow. The "Equal Opportunity for All Investors Act" expands the pool of angel investors.

The current definition for accredited investor is not based on the assessment of investment risks, how to evaluate opportunities, or how conduct due diligence. Rather, the current standard is

[2] Deloitte, Unleash AI's Potential: Measuring the Return from Pharmaceutical Innovation 14th ed. (April 2024), 6.

entirely predicated on wealth and the ability to absorb total loss. Wealth should not be the sole determinant of investment knowledge, so this bill directs the SEC to create a thorough accredited investor exam that allows more people who understand investing to participate in the marketplace.

Public Markets

We have the deepest, most liquid, and most competitive equity markets in the world. But fewer companies are going public these days for a variety of reasons. It's expensive to be a public company – funds must be diverted away from critical R&D, clinical development, and scientists and more towards regulatory filings, paperwork, quarterly reporting, and accountants and lawyers.

The biotechnology market has seen wild market swings over the last several years. The entire sector saw speculative inflows as the response to COVID attracted public monies even if companies were not developing drugs to directly respond to the pandemic. For instance, many companies like Sutro and other companies working on cancer therapeutics or treatments for rare diseases also saw market fluctuations. The epic market swing forced companies to exit the emerging growth company, or EGC, exemption and forced them to comply with new regulatory filing requirements despite the fact that their stock prices receded shortly after breaching the thresholds.

The public market vacillations caused Sutro and other companies to trigger certain additional reporting requirements. This trigger event was not based on company fundamentals, such as finally having product revenues. It was just a blip in the market that caused more reporting requirements.

<u>What can Congress do to help smaller public companies?</u>

Extend the Emerging Growth Company Definition

The Helping Startups Continue to Grow, sponsored by Rep. Steil

The Emerging Growth Company (EGC) designation is a critical reason why the JOBS Act was so successful at incentivizing IPOs, especially from small companies. EGCs currently must have less than $1.235 billion in annual revenues or less than $700 million in public float to take advantage of the EGC designation. EGC status currently lasts for five years. Most biotechnology companies that make the transition into public markets do not generate revenue for years beyond the current five-year EGC exemption limitation. Sutro is a prime example. The five-year timeline is simply too short for small biotechs. It's like having a tax system based on age, instead of income, which makes no sense.

This bill allows for an additional five-year extension of the EGC exemption, which aligns with economic realities, better serves the original intention of the JOBS Act, and still preserves investor protections.

Updating and aligning the definition of Small Business
The Small Entity Update Act, sponsored by Rep. Wagner

The SEC needs to report on and revise the definition of Small Business. The noncontroversial "Small Entity Update Act" does just that. It passed this Committee 42-0 last Congress and then passed the House 367-8. So we appreciate the strong bipartisan support for this legislation.

I'm a lawyer, so I don't want to disparage the profession, but small entities simply can't afford to hire a bunch of lawyers and accounting and regulatory experts to comply with the same regulations that a large blue-chip stock must comply with. This legislation directs the SEC to assess regulatory costs of compliance for small and growing businesses, ensuring that regulations placed on these businesses are not overly burdensome. The Small Business Advocate at the SEC has been a great success, and a helpful resource at the SEC, but that office has limited power so having the Commission review and revise the definition of Small Business would be very helpful.

Revising Regulatory Thresholds

In addition to the SEC needing to update their small business definition, the SEC needs to also update their public float threshold triggers. Chairman Tim Scott included a provision in his bill, *Empowering Main Street in America Act*, that would require the SEC to revise thresholds for smaller reporting companies to account for a 12-month rolling average of $700 million or less for their public float. By converting public float thresholds from hard triggers to a rolling average trigger, it avoids surprise expenses for companies that may have a small, temporary blip in their stock price.

Conclusion

In conclusion, I support transparent and reliable capital markets, both private and public, that allow companies to efficiently "graduate" or transition across funding structures while minimizing overlap in reporting and disclosure burdens. Disclosures and reporting obligations should be scaled as a company matures and generates revenues.

Small tweaks can mean a big difference for emerging biotechnology entrepreneurs who continue to face a tidal wave of challenges. Congress should build off the successful implementation of the JOBS Act and pass legislation that will enhance capital formation, including the *Equal Opportunity for All Investors Act, Helping Startups Continue to Grow Act,* and the *Small Entity Update Act.*

Thank you for inviting me to provide my perspective on these issues. I welcome the Committee's questions.

Chairman HILL. Thanks, Mr. Newell. Ms. Matthews Brackeen, you are now recognized for 5 minutes.

STATEMENT OF CANDICE MATTHEWS BRACKEEN, GENERAL PARTNER, LIGHTSHIP CAPITAL

Ms. MATTHEWS BRACKEEN. Thank you very much. Chairman, Ranking Member Waters, and members of the committee, thank you for inviting me here today. My name is Candice Matthews Brackeen. I am the Founding Partner of Lightship Capital and CEO of Lightship Foundation and a native Ohioan. Recently, my team and I launched a fund of funds called Anchor, but really to understand why we launched that fund of funds, let me first start with the journey that brought us here.

Lightship started as a nonprofit, focused with one goal: helping entrepreneurs in communities that often get overlooked. While our early work had great successes, we soon realized that helping individual businesses just was not enough. The larger system around them still needed fixing. To truly support entrepreneurs, we had to build something bigger. Through acquisition, we expanded our work by bringing together three nationally recognized programs: NewMe Accelerator, Black Tech Week, and FounderGym. Each had strong educational resources in support of communities. Black Tech Week, in particular, has been running for 11 years as a major tech conference that is now located in Cincinnati, Ohio.

By combining these organizations under the Lightship Foundation, we gave them the resources and structure needed to grow and support even more entrepreneurs around America. We could not do this alone. However, we have been supported by amazing public and private partners like JobsOhio, who share our vision for economic development and growth. We then created our own venture fund to invest directly in talented entrepreneurs who were overlooked by traditional investors, but even as we saw success, we discovered an even bigger problem. Venture capital is still mostly focused in coastal cities like New York and San Francisco. Talented founders like us in the Midwest and South and other regions are just still left out, and that is why we started Anchor.

Anchor originally began with a series of meetings around the country with groups of experienced fund managers who were frustrated by the barriers we were all facing. Even though we had proven ourselves, we struggled to raise money because we were not from traditional venture capital markets. This created what we call emerging manager redlining, an unintentional bias against new and regional funds, particularly outside of the major coastal cities. By blocking first-time and emerging funds, we unintentionally support geographic bias, limit opportunities for promising managers, and miss out on potentially great returns. Anchor directly tackles this market failure. Our fund of funds help support promising new managers across the Heartland, Midwest, and South. We provide resources they need to succeed and generate strong returns for their investors.

We have introduced three key innovations at Anchor. First of all, Anchor has recently received an Small Business Investment Company (SBIC) green light from the Small Business Administration, a crucial first step that signals confidence that the Small Business

Administration (SBA) is our anchor investor, and it helps attract further investment. Second, our fund structure helps investors benefit from successful startups while reducing the risk of large losses across the entire portfolio. Last, we eliminated the double fees that are common in traditional fund of funds, making Anchor more affordable and more attractive to institutional investors like pension funds and endowments.

However, there are still policy barriers that we need to address. Right now, venture capital funds benefit from certain exemptions under the Investment Advisers Act, but fund of funds like ours do not. We have to register. Extending these exemptions equally to all venture funds, including fund of funds, would remove unnecessary hurdles and modernized investment rules. Second, current law also limits venture funds to just 250 investors, and with inflation, this just does not work. So for a $2 billion fund like ours, that means each investor must contribute around $8 million on average, effectively excluding 99 percent of Americans. Increasing the investor cap from 250 to something like 2,000 as proposed by the Developing and Empowering our Aspiring Leaders (DEAL) Act, would dramatically lower the entry point, allowing more Americans to participate.

Finally, we suggest one more policy improvement. Public investment funds, like public pensions and endowments, should be required to review proposals from first-time and emerging managers. They do not have to invest, but they should not be allowed to have rules to automatically exclude new managers, many of those managers being in the middle of the country. This simple change would significantly reduce geographic bias and democratize access to venture capital across the country. Building and supporting fund of funds like Anchor is the key solution to addressing capital inequality in America's underserved regions. Reducing barriers to these funds is not just helpful, it is essential. It is how we ensure economic growth and innovation in every part of our country.

Thank you for your time, and I look forward to your questions and continuing the conversation.

[The prepared statement of Ms. Matthews Brackeen follows:]

Testimony of Candice Matthews Brackeen Before the House Financial Services Committee

Chairman, Ranking Member, and Members of the Committee,

Thank you for inviting me to speak today.

My name is Candice Matthews Brackeen. I'm the Founding Partner of Lightship Capital Management and CEO of Lightship Foundation. Recently, my team and I launched a new kind of investment fund called Anchor. But to really understand Anchor, let me first share the journey that brought us here.

Lightship started as a nonprofit focused on one goal: helping entrepreneurs in communities that often get overlooked. While our early work had great successes, we soon realized that helping individual businesses wasn't enough. The larger system around them still needed fixing. To truly support entrepreneurs, we had to build something bigger.

So, we expanded our work by bringing together three nationally recognized programs: NewMe Accelerator, Black Tech Week, and FounderGym. Each had strong educational resources and supportive communities. Black Tech Week, in particular, has been running for 11 years as a major tech conference in Cincinnati. And next year, we will host Women's Tech Week, the first national conference dedicated specifically to women tech founders.

By combining these organizations under the Lightship Foundation, we gave them the resources and structure needed to grow and support even more entrepreneurs across the country. We couldn't do this alone—we've been supported by amazing public and private partners like JobsOhio, the TD Jakes Foundation, and the Surdna Foundation, who share our vision for economic development and growth.

We then created our own venture fund to invest directly in talented entrepreneurs who were overlooked by traditional investors. But even as we saw success, we discovered another bigger issue: venture capital is still mostly focused in coastal cities like New York and San Francisco. Talented founders in places like the Midwest, the South, and other regions were still left out.

That's why we started Anchor.

Anchor began with a group of experienced fund managers who were frustrated by the barriers we faced. Even though we had proven ourselves, we struggled to raise money because we weren't from the traditional venture capital cities. This created what we call "Emerging Manager Redlining," an unintended bias against new and regional fund managers, particularly outside major coastal cities. By blocking first-time funds, we unintentionally support geographic biases, limit opportunities for promising managers, and miss out on potentially great returns.

Anchor directly tackles this market failure. Our fund-of-funds model helps support promising new fund managers across the heartland, Midwest, and South. We provide the resources they need to succeed and generate strong returns for investors.

We introduced three key innovations with Anchor:

First, Anchor recently received an SBIC greenlight letter from the Small Business Administration, a crucial first step that signals confidence and helps attract further investment.

Second, our fund structure helps investors benefit from successful startups while reducing the risk of large losses across the portfolio.

Third, we eliminated the double-fee problem common in traditional fund-of-funds, making Anchor more affordable and attractive to institutional investors like pension funds and endowments. This ensures everyday Americans benefit from successful venture investments.

However, there are still policy barriers we need to address:

1. Right now, venture capital funds benefit from certain exemptions under the Investment Advisers Act, but fund-of-funds like ours do not. Extending these exemptions equally to all venture funds, including fund-of-funds, would remove unnecessary hurdles and modernize investment rules.

2. Current law also limits venture funds to just 250 investors. For a $2 billion fund like ours, that means each investor must contribute around $8 million on average, effectively excluding 99% of Americans. According to the Federal Reserve Bank of St. Louis, the wealthiest 10% of Americans hold about 67.3% of the nation's wealth, while the bottom 50% own just 2.4%. Increasing the investor cap from 250 to 2,000, as proposed by the DEAL Act, would dramatically lower the entry point, allowing more Americans to participate.

Finally, we suggest one more policy improvement: public investment funds, including pension funds, should be required to review proposals from first-time fund managers. They don't have

to invest—but they shouldn't be allowed to have rules that automatically exclude new managers. This simple change would significantly reduce geographic bias and democratize access to venture capital across the country.

Building and supporting fund-of-funds like Anchor is the key solution to addressing capital inequality in America's underserved regions. Reducing barriers for these funds isn't just helpful—it's essential. It's how we ensure economic growth and innovation reach every part of our country.

Thank you for your time. I look forward to your questions and continuing the conversation.

Chairman HILL. Thank you very much. Mr. Trotter, you are recognized for 5 minutes.

STATEMENT OF JOEL TROTTER, PARTNER, LATHAM & WATKINS LLP

Mr. TROTTER. Chairman Hill, Ranking Member Waters, and members of the committee, it is good to be with you here today. Based on my experience as a leader at the IPO Task Force, I am pleased to share my perspectives on reforms to expand access to capital across America.

The JOBS Act of 2012 is a bipartisan success story and a model for the innovative solutions you are now considering. Thirteen years ago, Congress enacted our IPO onramp proposal by an overwhelming bipartisan majority, and President Obama signed it into law. Title I has been called the most successful title in the JOBS Act, and academic research has concluded that the IPO onramp provisions significantly increased IPO volume. The JOBS Act succeeded, and the proposals under consideration today bear the same hallmarks of that success.

I fully support the committee's efforts to enact balanced reforms in Federal securities regulation, and I urge your support for the proposals listed in my written remarks. These proposals represent measured, carefully calibrated solutions to facilitate capital formation. With that said, I would like to make three points.

First, the JOBS Act changed none of the robust antifraud provisions of the Federal securities laws, and neither would any of the proposals before you today. I cannot overstate the importance of this point. There is a long list of liability provisions and compliance obligations that apply to all public companies. They are extensive and rigorous, and they will remain in full force and effect, undiminished by any of the proposals before you.

Second, the JOBS Act used a balanced approach that scales the regulatory burden to a company's size and maturity. The IPO onramp concept allowed the regulatory burden to scale to the size of the company, a simple but powerful concept borrowed from SEC rules. In the debate over more versus less regulation, this is a compelling way forward. Rather than more versus less, balanced regulation that scales over time, this approach encourages capital formation while maintaining a much greater level of securities regulation for mature public companies. That greater regulation includes the internal controls audit of Sarbanes-Oxley Section 404(b), which will continue to apply to larger public companies.

Critics of scaled regulation overlook this point when they cite the high-profile accounting scandals that led to the enactment of the Sarbanes-Oxley Act. It is important to remember those companies were huge, mega-cap Fortune 50 companies that would never have been eligible for any of the relief from Section 404(b) of Sarbanes-Oxley. Neither the JOBS Act nor any of today's proposals would give regulatory relief to companies of that size. Even if you pass every proposal before you today, every public company must undergo audit by a Public Company Accounting Oversight Board (PCAOB)-registered auditing firm and comply with all of the robust antifraud provisions of the Federal Securities laws. Also, all of the largest U.S. public companies representing nearly all of total U.S.

market capitalization would remain subject to Section 404(b) of the Sarbanes-Oxley Act.

That brings me to my third and final point. Of the proposals before you, two in particular stand out: extending the IPO onramp and expanding the category of well-known seasoned issuers. I discussed both of these proposals at length in my written remarks. They build on decades of successful experience promoting capital formation without compromising fundamental investor protections. They would have the greatest impact of the proposals before you, and I urge you to adopt them, along with the many other excellent proposals under consideration today.

You have the opportunity to build on the success of the JOBS Act and its lessons. Given the direct connection between capital formation and job creation, the opportunity is compelling. I welcome your questions. Thank you.

[The prepared statement of Mr. Trotter follows:]

Testimony of Joel H. Trotter
Partner
Latham & Watkins LLP

Before the U.S. House of Representatives
Committee on Financial Services

"Beyond Silicon Valley: Expanding
Access to Capital Across America"

March 25, 2025

Chairman Hill, Ranking Member Waters,
and Members of the Committee:

Thank you for inviting me to appear before you today.

Introduction

Based on my experience as a leader of the IPO Task Force, I am pleased to share my perspectives on reforms to encourage capital formation and investment opportunities. I have been a securities lawyer for thirty years and have advised on hundreds of initial public offering (IPO) transactions in my capacity as co-chair of my law firm's National Office, which is our central resource for clear, pragmatic, and action-oriented U.S. securities law advice. We offer an unparalleled ability to deliver sophisticated advice in real time on the most challenging securities law and IPO issues that clients face. I offer you my views today in my personal capacity and not on behalf of my law firm or any of our clients.

My work on the IPO Task Force led to the report we delivered to the U.S. Department of the Treasury with our recommendations to increase U.S. job creation and drive economic growth by

improving access to the public markets for emerging growth companies.[1] The IPO on-ramp refers to our recommendations for streamlining the IPO process. Congress enacted our IPO on-ramp proposal as Title I of the JOBS Act of 2012, which President Obama signed into law in a Rose Garden ceremony. Title I has been called the "most successful title in the JOBS Act," and academic research has concluded that the on-ramp provisions "significantly increased IPO volume overall."[2]

The JOBS Act is a bipartisan success story that provides a model for new initiatives today. There are many lessons from that experience, and I want to share my thoughts on some key points we can take from the success of the JOBS Act and how the nation's securities laws can strike the right balance in protecting investors while promoting market efficiency and capital formation. Before discussing that, however, I will offer my views on the proposals before you today.

Today's Proposals

I support all of the Committee's efforts to enact common-sense, balanced reforms in federal securities regulation. I hope you will take the opportunity to capitalize on the opportunity before you and to use the principles I will describe today to replicate your hard-won victories of prior years.

In particular, I urge your support for all of the proposals listed in Appendix A to these remarks. These proposals are before you today. Each of them would implement important changes that I have advocated previously.[3] They will help expand access to capital

[1] IPO Task Force, "Rebuilding the IPO On-Ramp: Putting Emerging Companies and the Job Market Back on the Road to Growth" (Oct. 20, 2011) [hereinafter "Task Force Report"], available at https://www.sec.gov/info/smallbus/acsec/rebuilding_the_ipo_on-ramp.pdf.

[2] Michael S. Piwowar, Testimony, U.S. House of Representatives Committee on Financial Services, Subcommittee on Capital Markets (Mar. 9, 2023) (citing Michael Dambra et al., "The JOBS Act and IPO Volume: Evidence that Disclosure Costs Affect the IPO Decision," 116 J. of Fin. Economics 121 (2015)), available at https://docs.house.gov/meetings/BA/BA16/20230309/115394/HHRG-118-BA16-Wstate-PiwowarM-20230309.pdf.

[3] See Joel H. Trotter, Testimony to the U.S. House of Representatives Committee on Financial Services, Subcommittee on Capital Markets (April 19, 2023);

across America, and you will find more information on how they will do so in Appendix B to these remarks.

None of these proposals would alter any of the robust antifraud provisions of the federal securities laws. The demanding liability matrix of both the Securities Act of 1933 and the Securities Exchange Act of 1934 will remain completely unchanged. This is of critical importance in understanding the limited nature of the proposed changes now before you.

The compliance obligations that apply to all U.S. domestic public companies, including emerging growth companies, are extensive and rigorous. I have summarized some of them in Appendix C to these remarks. They remained unchanged by the JOBS Act's enactment, and they will continue in place after the enactment of all of the proposals before you today.

Two Key Proposals

On the list of proposals, two are by far the most important:

(1) extending the IPO on-ramp based on thirteen years of successful experience;[4] and

(2) expanding eligibility for well-known seasoned issuer status based on decades of successful experience.[5]

I can say without exaggeration that just these two changes would offer such a great effect on capital formation that their positive impact would likely outweigh that of all of the other proposals combined. I will summarize each of these two proposals in turn.

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available at https://www.congress.gov/118/meeting/house/115754/witnesses/HHRG-118-BA16-Wstate-TrotterJ-20230419.pdf; Kate Mitchell & Joel H. Trotter, Letter to Ranking Member Patrick J. Toomey U.S. Senate Committee on Banking, Housing & Urban Affairs, Letter to Ranking Member Patrick J. Toomey (June 25, 2022), available at https://www.banking.senate.gov/imo/media/doc/Joel%20Trotter%20and%20Kate%20Mitchell.pdf.

[4] See Exhibit A, Item 18, H.R. ___, the Helping Startups Continue to Grow Act (Steil).

[5] See Exhibit A, Item 22, H.R. ___, a bill to expand WKSI Eligibility (Steil).

Extending the IPO On-Ramp

The JOBS Act's IPO on-ramp succeeded by providing accommodations that streamlined the IPO process and promoted efficiency without compromising investor protection. The IPO on-ramp accommodations are limited, measured and based on analogous pre-existing principles or practices in federal securities regulation. Extending the IPO on-ramp provides a balanced approach to promote IPO activity without compromising investor protections, including all of the disclosure and liability requirements that continue to remain in place for all companies.

This extension of the IPO on-ramp would update the definition of emerging growth company to mean an issuer that had total annual gross revenues of less than $3.0 billion before beginning the IPO registration process and continuing for up to ten years after the IPO, while eliminating the disqualification of emerging growth company status that results from large accelerated filer status and too often cuts short the benefits of the IPO on-ramp.

With thirteen years of successful experience with the IPO on-ramp, we know that the IPO on-ramp has worked very well to streamline the IPO process and welcome new public companies into the capital markets. It is time to build on that success.

That brings me to the second of the two key proposals.

Expanding the Category of
Well-Known Seasoned Issuers

In 2005, the SEC created a new category of companies known as well-known seasoned issuers. All public companies, including well-known seasoned issuers, undergo regular review of their SEC filings, as required by the Sarbanes-Oxley Act.[6] But well-known seasoned issuers are permitted to register their securities offerings automatically, without any delay caused by SEC review of any particular offering. That provides these companies with a major advantage for capital formation because they can go to market

[6] See Sarbanes-Oxley Act Section 408 (requiring the SEC to review the filings of SEC reporting companies on a regular basis based on various factors and, in any case, at least "once every 3 years").

quickly on new offerings whenever they need more capital, and they can do so while taking advantage of opportune market conditions.

For these transactions, the robust and demanding antifraud provisions of the federal securities laws guarantee investors the same levels of protection that would apply in any other securities offering.

Decades of successful experience show that the well-known seasoned issuer category is long overdue for expansion. The well-known seasoned issuer definition is unduly limited. As updated, the new definition would apply to companies with a non-affiliate market capitalization, or public float, of $75 million, rather than the public float threshold of $700 million currently required for well-known seasoned issuers.

The well-known seasoned issuer category merits expansion so that it overlaps with eligibility for short-form registration.

First, since the introduction of well-known seasoned issuers decades ago, the automatic shelf registration process and other benefits available to well-known seasoned issuers have significantly improved capital formation and market efficiency without compromising investor protection. The SEC acknowledged in 2004, when initially proposing the category of well-known seasoned issuers, that a much lower float test for well-known seasoned issuers could be appropriate. Recent decades have borne that out.

Second, and also for multiple decades, companies with a public float of at least $75 million have been able to engage in short-form registration of securities using the integrated disclosure system based on those companies' periodic reporting. When the SEC updated the short-form registration process in 1992, the SEC set the threshold for primary issuances based on a $75 million public float because it found that the securities markets efficiently reflect available information about companies with that level of public float. That determination in 1992 occurred long before the modern internet and even before all SEC filings became available online, which did not occur until years later, in 1994.

These two categories should converge. Technological and market changes in the last three decades have dramatically increased

the efficiency of the market for securities with a $75 million public float. The advent of digital platforms, company websites, and financial news aggregators has made corporate information instantly accessible. Meanwhile, innovations such as electronic trading, decimalization, and algorithmic investing have enhanced liquidity and price precision. Social media platforms and crowdsourced analysis tools have broadened and deepened market efficiency and supplement traditional analyst coverage with real-time insights from diverse participants. Separately, institutional investors, empowered by portfolio management software and ETFs, engage readily with $75 million float companies. Taken together, today's securities markets are vastly more efficient that in 1992, with even mid-cap companies today benefiting from unprecedented levels of market efficiency.

As a result, well-known seasoned issuers should now include all companies that otherwise satisfy the well-known seasoned issuer definition and that have a public float of at least $75 million, rather than the arbitrarily high and unduly restrictive $700 million public float currently required for well-known seasoned issuer status.

Lessons Learned from the JOBS Act

The success of the JOBS Act offers important lessons for how to think about a perennial question in the federal securities laws. The question is how to optimize the level of regulation to balance investor protection with market efficiency and capital formation. This goal is consistent with the three-part mission Congress has long assigned to the Securities and Exchange Commission—namely, to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation.[7]

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[7] See, e.g., Securities Act of 1933, 15 U.S.C. § 77b(b) ("Whenever . . . the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation."); Securities Exchange Act of 1934, 15 U.S.C. § 77b(f) (same).

The three-part mission is ubiquitous on the SEC's website. See, e.g., About the SEC ("The mission of the SEC is to protect investors; maintain fair, orderly, and

This is an especially important topic. First, IPOs have a demonstrable effect in fostering job creation. Easing the path to going public and streamlining the ability to operate as an ongoing public company have important benefits not only to our capital markets but to the job creation that public companies foster. Second, as other jurisdictions consider market reform, it is especially important for securities markets in the United States to encourage capital formation by maintaining their global competitive edge.

My purpose today is to provide my perspective based on my experience with the IPO Task Force and in helping create Title I of the JOBS Act. As we look back on thirteen years of experience under the JOBS Act, we can learn important lessons from that highly successful bipartisan legislation adopted by an overwhelming majority of both houses of Congress.

Balancing Rather than Increasing or Reducing Regulation

Often the debate is about more regulation or less regulation, with the predictable stalemate that inevitably results. On the one hand, those who want more regulation focus on the costs that fraud imposes. They see more regulation as a way to reduce fraud-related costs and bolster investor confidence. On the other hand, those who want less regulation focus on the costs that regulatory compliance entails. They see less regulation as a way to reduce compliance costs, freeing up capital for companies to hire more employees and invest in research and development.

But the JOBS Act showed a way forward in this debate: Not more versus less regulation, but balanced regulation that scales over time. Companies can be encouraged to enter the public markets through regulatory accommodations that offer an on-ramp to public company status. This approach encourages IPO activity while maintaining the existing—and continuously increasing—level of securities regulation for mature public companies. Using this type of balanced approach to enhance the design of regulatory

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efficient markets; and facilitate capital formation."), available at https://www.sec.gov/about.

compliance obligations will prove increasingly important as SEC rules continue to become more expansive and complex.

Template for Success: What the JOBS Act Did Not Do

Three key features of the JOBS Act warrant special emphasis. They are often overlooked because these features do not appear in the statute. They are, instead, elements that the statute did not contain. In my view, they are fundamental aspects of the legislation that allowed it to gain overwhelming bipartisan support in both houses of Congress.

First, the JOBS Act did not alter any of the robust antifraud provisions of the federal securities laws. The demanding liability matrix of both the Securities Act of 1933 and the Securities Exchange Act of 1934 remained completely unchanged. This is of paramount importance in understanding the limited nature of the changes embodied in the JOBS Act. The compliance obligations that apply to all U.S. domestic public companies, including emerging growth companies, are extensive and rigorous, as you can see in Appendix C to these remarks.

Second, the JOBS Act did not repeal any of the new securities laws and regulations that Congress and the SEC had adopted in the prior decade. Instead, the innovations in the IPO on-ramp provisions provided a limited group of companies with a limited number of regulatory accommodations for a limited period of time. Eventually, the full panoply of regulatory obligations would apply to those public companies when they would cease to qualify as emerging growth companies.

Third, the JOBS Act did not limit the IPO on-ramp accommodations to a junior-varsity category of favored companies. Instead, the definition of emerging growth company was designed to include nearly all IPOs. Had the statute limited the IPO on-ramp's availability only to a narrow category of small-revenue companies, it would have created a second-class IPO that would have failed to garner the immediate and widespread market acceptance that the IPO on-ramp regime experienced. Practitioners who are familiar

with some of the SEC's small business initiatives understand this phenomenon.[8]

Template for Success: What the JOBS Act Did

Three additional features of the IPO on-ramp contributed to its decisive success. These are affirmative design elements that do appear in the statutory framework, and they are similarly instructive for future legislative solutions.

First, the IPO on-ramp concept allowed the regulatory burden to scale to the size of the affected company. This is a simple but powerful concept borrowed from SEC rules in other areas. For example, the first annual report of all newly public companies, regardless of the company's size, need not comply with the requirement to include an external audit of internal controls. This is a pre-existing transition period that the SEC adopted in implementing its rules under the Sarbanes-Oxley Act of 2002. This transition period inspired the IPO Task Force's recommendation to provide a meaningful on-ramp transition period for newly public emerging growth companies. The approach also resolves an otherwise intractable debate over repealing recent regulatory enactments versus adopting increased levels of regulation in response to recent events. An on-ramp allows new regulations to stay in place while offering smaller companies a finite time in which they benefit from regulatory accommodation.

Second, the IPO on-ramp comprised multiple small changes that would have an outsized impact in streamlining the IPO process. Examples include modernizing the IPO communications restrictions, permitting the SEC review process to begin confidentially, and allowing scaled disclosure. In each instance, a small change made a big difference in how IPOs are conducted. The JOBS Act fundamentally changed the IPO playbook, offering more flexibility in the offering process and an easier path to compliance as a newly public company.

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[8] For example, the SEC's annual report on Form 10-KSB for small business issuers offered the advantage of scaled disclosure through abbreviated reporting but failed to achieve widespread market acceptance due to the stigma of the SB designation.

Third, the IPO on-ramp's statutory text was wisely self-executing rather than relying on rulemaking mandates that require agency action. In this regard, the JOBS Act is itself a study in contrasts: the IPO on-ramp provisions in Title I were immediately effective the moment that President Obama signed the bill into law on April 5, 2012, whereas other parts of the statute required SEC rulemaking by specified deadlines—none of which were met. The Dodd-Frank Act of 2010 presents a similar dichotomy: its self-executing provision exempting non-accelerated filers from the requirement to provide an external audit of internal controls became effective immediately, whereas the clawback rulemaking mandate did not become effective until December 2023—more than thirteen years after Congress mandated that rulemaking.[9]

JOBS Act History

The first decade of the new millennium saw an unprecedented number of new SEC rulemakings, and public companies faced an equally unprecedented level of securities regulatory compliance obligations. Congress enacted the Sarbanes-Oxley Act of 2002 in response to a wave of corporate scandals involving meltdowns of major public companies with huge market capitalizations. Less than a decade later, Congress enacted the Dodd-Frank Act of 2010 in response to the global financial crisis and the seemingly overnight meltdown of some of the largest financial institutions in the world. Together, these two statutes and the SEC rules that followed introduced major levels of new corporate governance requirements and securities regulation. Public companies now faced much higher compliance obligations.

Not only had the compliance burden increased, but it was sometimes wildly underestimated. The SEC correctly anticipated in 2003 that its rules implementing Section 404 of the Sarbanes-Oxley Act would "discourage some companies from seeking capital from the public markets" because those "rules increase the cost of being

[9] *Compare* Section 989G of the Dodd-Frank Act (providing a self-executing provision that, in 2010, immediately exempted non-accelerated filers from Section 404(b) of the Sarbanes-Oxley Act) *with* Section 954 of the Dodd-Frank Act (mandating SEC rulemaking to implement clawback requirements that became effective 13 years later, in December 2023).

a public company."[10] However, the SEC's cost-benefit analysis supporting its adoption of the rules underestimated by orders of magnitude the true annual cost of compliance implementation. The SEC estimated Section 404(a) compliance costs at a mere $91,000 per company.[11] But actual compliance costs averaged $4.36 million and 27,000 hours.[12] These and other compliance obligations, over the course of a decade, "significantly and continuously increased the compliance burden associated with public company status and made IPOs more costly and difficult."[13]

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[10] Release No. 33-8238 (June 5, 2003) at text accompanying n.174 (implementing Sarbanes-Oxley Section 404).

[11] Id. The $91,000 estimate excluded "the costs associated with the auditor's attestation report, which many commenters have suggested *might* be substantial." Id. (emphasis added).

[12] See Financial Executives International, FEI Special Survey on SOX 404 Implementation (March 2005) (reporting on a survey of large public companies complying with the new rules under Section 404 in its first year).

[13] Task Force Report at 21; see also Release Nos. 33-9136 & 33-9259 (implementing Section 404 of the Sarbanes-Oxley Act through rules expected to "discourage some companies from seeking capital from the public markets" because those "rules increase the cost of being a public company"); Release No. 33-7881 (adopting Regulation FD); Release No. 33-8048 (requiring additional disclosures regarding equity awards); Release No. 34-42266 (requiring specific disclosures regarding audit committees); Release No. 34-46421 (requiring accelerated reporting of insider beneficial ownership); Release No. 33-8124 (requiring officer certifications under Sarbanes-Oxley Section 302); Release Nos. 33-8128 & 33-8128A (requiring accelerated filing of periodic reports and disclosure regarding website access to such reports); Release No. 33-8176 (adopting disclosure requirements regarding non-GAAP financial measures); Release No. 34-47225 (restricting officer and director transfers of equity securities during pension fund blackout periods); Release Nos. 33-8177 & 33-8177A (requiring disclosure regarding code of ethics and audit committee financial experts); Release No. 33-8180 (requiring seven-year retention of audit work papers under Sarbanes-Oxley Section 802); Release No. 33-8182 (requiring disclosure regarding off-balance sheet arrangements); Release No. 33-8183 & 33-8183A (requiring audit committee pre-approval of audit and non-audit services, audit partner rotation, auditor reports to audit committees, enhanced disclosure regarding audit and non-audit fees and adopting additional requirements for auditor independence); Release No. 33-8185) (requiring attorneys to report evidence of a material violation of securities laws); Release No. 33-8220 (adopting heightened independent requirements for listed company audit committees); (Release No. 33-8230) (requiring electronic filing and website posting of reports under Exchange Act Section 16); Release No. 33-8238

In October 2010, President Obama met with Steve Jobs. Walter Isaacson's biography of the legendary founder and CEO of Apple Inc. recounts the 45-minute meeting:

> Jobs did not hold back. "You're headed for a one-term presidency," Jobs told Obama at the outset. To prevent that, he said, the administration needed to be a lot more business-friendly. He described how easy it was to build a factory in China, and said that it was almost impossible to do so these days in America, largely because of regulations and unnecessary costs.[14]

Three months after Jobs implored President Obama to fix burdensome regulations and unnecessary costs, the President took up that task, highlighting a new priority in his State of the Union Address of January 2011. His administration would review and "fix" government regulations that "put an unnecessary burden on businesses":

> To reduce barriers to growth and investment, I've ordered a review of government regulations. When

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(implementing Sarbanes-Oxley Section 404 requiring an annual management's report and auditor attestation on internal control over financial reporting); Release No. 33-8340 (requiring disclosures regarding nominating committee functions and security-holder communications); Release No. 33-8350 (adopting guidance regarding management's discussion and analysis of financial condition and results of operations); Release Nos. 33-8400 & 33-8400A (increasing the events reportable on Form 8-K and accelerating the reporting deadline); Release No. 33-8565 (interpreting Regulation M to prohibit certain conduct in connection with IPO allocations); Release No. 33-8644 (adopting accelerated deadlines for periodic reporting); Release Nos. 33-8732 & 33-8732A (adopting additional requirements for disclosures relating to executive compensation, including compensation discussion and analysis); Release Nos. 33-9002 and 33-9002A (requiring financial statement data in an interactive data format using XBRL technology); Release No. 33-9089 (requiring additional disclosures regarding corporate governance matters in proxy statements); Release No. 33-9106 (providing interpretive guidance regarding disclosure required in respect of climate change issues).

[14] Walter Isaacson, *Steve Jobs* 544 (2011).

> we find rules that put an unnecessary burden on businesses, we will fix them.[15]

Two months later, the Obama Administration convened its Access to Capital Conference led by Treasury Secretary Tim Geithner. The March 2011 conference at the Department of the Treasury brought together policymakers, entrepreneurs, investors, academics, and other market participants to explore how to promote access to capital at each stage of growth from seed capital to accessing the public markets. Secretary Geithner convened the conference in part to "examine the causes of IPO decline and to explore solutions."[16]

The Treasury Department's Access to Capital Conference resulted in the formation of the IPO Task Force. We set out to study the decline in IPO activity and recommend changes to make it easier for companies to go public. That is because private companies have two principal ways of returning capital to their early-stage investors: either through a company sale to an acquirer or by going public. Acquired companies are absorbed into a larger enterprise, often with efficiencies realized through the elimination of redundant positions. In contrast, the research of the IPO Task Force showed that companies that go public experience over 90% of their job growth post-IPO.[17] Given the direct connection between IPO activity and job growth, we wanted to restore the balance between the M&A and IPO alternatives that a private company faces when the time is right to return early-stage investment capital and pursue its next level of growth.

We issued the IPO Task Force report in October 2011. Two months later, our recommendations became the basis of Title I of the JOBS Act when, in December 2011, bipartisan co-sponsors in

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[15] Barack Obama, State of the Union Address (Jan. 25, 2011), available at https://obamawhitehouse.archives.gov/the-press-office/2011/01/25/remarks-president-barack-obama-state-union-address-prepared-delivery.

[16] James Freeman, "How Silicon Valley Won in Washington," *Wall Street Journal* (Apr. 6, 2012), available at https://www.wsj.com/articles/SB10001424052702303299604577326270090887812.

[17] Task Force Report at 5 (citing Venture Impact Study 2010 by IHS Global Insight).

both the Senate and the House of Representatives introduced bills to enact the IPO Task Force's recommendations.

Maintaining Perspective

Testifying in December 2011 before the Securities Subcommittee of the Senate Banking Committee, Harvard Law Professor John Coates described the bipartisan IPO on-ramp bill (which ultimately became Title I of the JOBS Act) as "the most carefully written and calibrated" and "cautious" of the several bills that in combination became the JOBS Act. He also characterized the bill as "an experiment" that "would be a good idea to try."[18]

Professor Coates's description of the IPO on-ramp as an "experiment" drew a memorable response from then-Senator Pat Toomey (R-Pa.). Rather than "experimental," said Senator Toomey, the IPO on-ramp bill was a "very constructive" step to provide a limited period during which a limited number of companies would be "relieved of a relatively new regulation":

> I just want to comment on the characterization . . . made about these bills as a series of proposals for experiments. At least in the case of [the IPO on-ramp bill], certainly, it seems to me that one of the central provisions, one of the most important provisions in this bill, if not the most important provision, is the fact that it would allow these emerging growth companies for a limited period of time, so a very small subset of all companies for a limited period of time, to simply be relieved of a relatively new regulation, which is 404(b) of Sarbanes-Oxley, which is only about 10 years old.
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> So for untold previous decades, while the United States capital markets became the largest, deepest, most efficient, most sophisticated, most advanced markets in the history of the world, we never had any

[18] Hearing of the Securities, Insurance and Investment Subcommittee of the Senate Banking, Housing and Urban Affairs Committee (Dec. 14, 2011), available at https://www.banking.senate.gov/hearings/examining-investor-risks-in-capital-raising.

> such regulation during that entire period of time. So to suggest that we simply go back to that regime for a brief period for a small subset of companies doesn't strike me as terribly experimental, but it does strike me as very constructive for the companies that would otherwise be faced with the very, very expensive cost of complying with this provision.[19]

If the IPO on-ramp was an experiment, it has succeeded. After thirteen years of experience under the IPO provisions of the JOBS Act, Senator Toomey's remarks have proved prescient.

His remarks also offer an important reminder about designing balanced compliance obligations that scale based on a company's size and maturity. As legal and regulatory compliance burdens continue to accrete with new legislation and SEC rulemakings, a limited accommodation period for a limited number of companies can provide a constructive and tailored approach to regulatory compliance. The success of the JOBS Act confirms that compliance obligations can and often should provide for an extended transition period for newly public companies, and the category of emerging growth companies offers a useful vehicle for doing so.

Small Changes Can Make a Big Difference

Critics have sometimes argued that public company compliance obligations are so extensive that they cannot be reduced enough to make any meaningful difference to private company executives considering whether to pursue an IPO. These critics would claim that "neither Congress nor the SEC would ever be able to lower the public company bar enough to materially alter that calculus."[20]

That claim, if true, sounds more like an urgent call to corrective action than a basis for complacent resignation. But, in fact, the claim is not true. No experienced lawyer with meaningful IPO experience

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[19] Id.

[20] See, e.g., Stacey L. Bowers, Testimony, U.S. House of Representatives Committee on Financial Services, Subcommittee on Capital Markets (Mar. 9, 2023), available at https://docs.house.gov/meetings/BA/BA16/20230309/115394/HHRG-118-BA16 -Wstate-BowersS-20230309.pdf.

would make such a claim. It is reminiscent of Professor Coates's agnosticism in 2011 when assessing the potential efficacy of the IPO on-ramp provisions.

First, incremental changes can have a disproportionately positive impact. The IPO on-ramp demonstrated this with targeted, incremental changes that streamlined the IPO process in meaningful ways. These incremental changes with outsized impact included (i) permitting offering-related communications to institutional accredited investors before and during the offering process; (ii) allowing companies to begin the SEC review process confidentially; (iii) less extensive, scaled disclosures; and (iv) relief from the requirement to provide an external audit of internal controls, wholly separate from the external audit of the company's financial statements. The SEC and its staff extended the first two accommodations for all companies based on years of successful experience with the IPO on-ramp. And the IPO Task Force based the latter two accommodations on pre-existing exceptions available to smaller companies before the JOBS Act.

Second, some of the incremental changes of the IPO on-ramp offer meaningful cost savings. One example is the ability to go public using two years rather than three years of audited financial statements. That offers a meaningful savings in financial statement audit costs. Another, even more significant example is relief from the requirement to provide an external audit of internal controls. As Senator Toomey demonstrated in his remarks in 2011, that accommodation makes a real difference to a newly public company. An annual internal controls audit can easily cost millions of dollars. That money would otherwise go straight to the bottom line. For a software company trading at a 12x EBITDA multiple, every $1 million in compliance costs equals $12 million in enterprise value.

Do not discount incremental changes. When carefully chosen, they can make a big difference. The proposals before you today will increase economic growth and job creation by facilitating capital formation.

Looking Back
On Thirteen Years of Success

In 2012, the JOBS Act had plenty of detractors. Some critics of the IPO on-ramp predicted that the regulatory accommodations were too extensive and would lead to increased fraud and a crisis of investor confidence that would cause more harm to the IPO market. These critics overlooked the effect of the extensive and rigorous liability provisions of the federal securities laws that would continue to apply to all IPOs and public companies. Other critics of the IPO on-ramp claimed that the changes were unlikely to make a meaningful difference or that the new accommodations would fail to gain market acceptance. These critics proved mistaken when market acceptance of the IPO on-ramp quickly ensued. Moreover, the SEC and its staff followed Congress's lead by extending two of the key on-ramp accommodations—confidential SEC review and testing-the-waters—to apply to all companies across the board. Today, the IPO on-ramp provisions of the JOBS Act have been vindicated, and no serious detractors remain after thirteen years of successful experience.

That is why the story behind the JOBS Act merits your careful consideration today. It offers a template for successful bipartisan legislation. It offers an approach to balancing compliance obligations to allow for regulatory burdens to scale based on the size and maturity of the affected company. It leaves all regulatory compliance obligations in place for all companies over the long run as they mature into larger enterprises. And it leaves intact all of the extensive and rigorous antifraud liability provisions of the federal securities laws.

Conclusion

Implementing changes to the federal securities laws is no easy task. But the experience of the IPO on-ramp provisions in Title I of the JOBS Act shows the path to success. To conclude, I will highlight four important lessons learned from the IPO Task Force experience.

First, begin by recognizing what does not change in the proposals before you for regulatory accommodations. The robust and comprehensive liability regime of the federal securities laws

offers powerful, time-tested investor protections that remain unaffected by the innovative changes currently before you. Critics of the JOBS Act overlooked this fact when they predicted doom and gloom, but thirteen years of success have proved them wrong.

Second, continue to scale the regulatory obligations so that the largest, most mature companies bear the full regulatory compliance burden while smaller and less mature public companies benefit from meaningful regulatory accommodations. The winning regulatory approach is scaled to company size and maturity, building on longstanding approaches that have succeeded in tailoring the level of compliance obligations.

Third, simplicity. Even small, technical changes can make a meaningful difference in promoting capital formation.

Fourth, implement new changes using self-executing statutory text. Enacting clear amendments to the statutory framework is the best way to achieve the intent of Congress and far preferable to mandatory rulemakings and avoid overburdening the agency's rulemaking docket.

You have the opportunity to build on the success of Title I of the JOBS Act and the lessons it offers us today. Given the direct connection between capital formation and job creation, the opportunity is compelling.

I welcome your questions.

Appendix A

SELECTED LEGISLATION ATTACHED TO COMMITTEE HEARING MEMORANDUM

Each of these items of legislation attached to the Committee Hearing Memorandum would implement one of the proposals I have previously endorsed, as described in Exhibit B.

6. H.R. ___, the Encouraging Public Offerings Act of 2025 (Wagner):

The discussion draft codifies Rule 163B under the Securities Act by allowing an issuer to communicate with potential investors to determine interest in a securities offering, either before or after the filing of a registration statement (i.e., test the waters). The bill also allows issuers to submit a confidential draft registration statement to the SEC for review prior to public filing. The bill updates the public filing condition to allow any issuer conducting an initial public offering to file its registration statement publicly 10 days before the effective date of the registration statement.[21]

7. H.R. ___, a bill to amend the Securities Exchange Act of 1934 to specify certain registration statement contents for emerging growth companies, to permit issuers to file draft registration statements with the Securities and Exchange Commission for confidential review, and for other purposes (Nunn):

The discussion draft updates the EGC financial statement requirements to clarify that an EGC may present two years, rather than three years, of audited financial statements in both IPOs and spin-off transactions. The bill allows a spin-off of an EGC to benefit from the two-year financial statement accommodation, which is currently only available during an IPO.[22]

8. H.R. ___, a bill to amend the Federal securities laws to specify the periods for which financial statements are required

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[21] See Exhibit B, Item 3(a) & 3(b).
[22] See Exhibit B, Item 3(c).

to be provided by an emerging growth company, and for other purposes (Haridopolos):

The discussion draft establishes that an Emerging Growth Company (EGC), as well as any issuer that went public using EGC disclosure obligations, only needs to provide two years of audited financial statements.[23]

17. H.R. ___, a bill to permit an issuer, when determining the market capitalization of the issuer for purposes of testing the significance of an acquisition or disposition, to include the value of all shares of the issuer (Salazar):

The discussion draft clarifies that a company's market capitalization, for purposes of testing the significance of an acquisition or disposition and determining whether a target company's financial statements are required, may include the value of all shares of stock, including preferred stock and non-traded common shares that are convertible into, or exchangeable for, traded common shares.[24]

18. H.R. ___, the Helping Startups Continue to Grow Act (Steil):

The discussion draft provides an extension of certain exemptions and reduced disclosure requirements for companies that were EGCs and would continue to meet all other requirements for EGCs except for the five-year restriction. This title also increases the maximum threshold amounts to qualify as an EGC to $3 billion and removes the disqualification for "large accelerated filers."[25]

19. H.R. ___, a bill to require auditor independence standards of the Public Company Accounting Oversight Board and the Securities and Exchange Commission applicable to past audits of a company occurring before it was a public company to treat an auditor as independent if the auditor meets

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[23] See Exhibit B, Item 3(d).
[24] See Exhibit B, Item 3(e).
[25] See Exhibit B, Item 1.

established professional standards, and for other purposes (McClain):

The discussion draft updates the SEC and PCAOB auditor independence requirements to provide that the auditor of a private company that is transitioning to public company status (via IPO, spin-off, or otherwise) must comply with SEC/PCAOB independence rules for the latest fiscal year, as long as the auditor is independent under AICPA or home-country standards for earlier periods.[26]

20. H.R. ___, a bill to amend the Securities Act of 1933 to expand the research report exception to include reports about any issuer that undertakes a proposed offering of public securities (Williams):

The discussion draft expands the provision for research reports in Section 2(a)(3) of the Securities Act to include research reports about any issuer that undertakes a proposed public offering of securities. The current provision only offers limited protection for EGC research reports by deeming them a non-offer.[27]

21. H.R. ___, a bill to exclude QIBs and IAIs From the Record Holder Count for Mandatory Registration (Garbarino):

The discussion draft updates Section 12(g) of the Exchange Act to provide that the mandatory registration threshold of 2,000 or more holders of record shall exclude Qualified Institutional Buyers (QIBs) and institutional accredited investors (IAIs).[28]

22. H.R. ___, a bill to expand WKSI Eligibility (Steil):

The discussion draft expands the availability of Well-Known Seasoned Issuer (WKSI) status by updating the WKSI definition to apply to all companies that otherwise satisfy the WKSI definition with a public float of $75 million, rather than the current public float of $700 million.[29]

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[26] See Exhibit B, Item 3(f).
[27] See Exhibit B, Item 3(g).
[28] See Exhibit B, Item 3(h).
[29] See Exhibit B, Item 2.

Appendix B

PROPOSALS TO INCREASE ECONOMIC GROWTH AND JOB CREATION BY FACILITATING CAPITAL FORMATION*

We applaud the ongoing bipartisan efforts to increase economic growth and job creation by facilitating capital formation. To that end, we are submitting our proposals for consideration by your Committee.

As leaders of the IPO Task Force, whose recommendations in the Report to the U.S. Department of the Treasury formed the basis of Title I of the Jumpstart Our Business Startups (JOBS) Act of 2012, we are pleased to offer our perspective on current reform proposals. We are submitting these proposals in our individual capacity and not as representatives of our respective organizations.

Simplicity contributed to the success of the IPO Task Force recommendations. Today, we recommend three simple changes based on our experience and more than a decade of success. Congress should (1) extend the IPO on-ramp by updating the emerging growth company (EGC) definition; (2) expand the category of well-known seasoned issuers (WKSIs) to apply to all short-form eligible registrants; and (3) adopt specific clarifications to eliminate certain inefficiencies remaining after the JOBS Act reforms.

1. Extend the IPO on-ramp based on more than a decade of successful experience.

Congress should extend the IPO on-ramp by updating the EGC definition to (i) increase the $1.235 billion revenue test to $3.0 billion; (ii) extend EGC status for a minimum of five years post-IPO; (iii) secure this five-year minimum period for any company that is an EGC when it begins the IPO review process but loses EGC status before completing IPO; (iv) eliminate

* Previously submitted to the U.S. Senate Committee on Banking, Housing & Urban Affairs, Letter to Ranking Member Patrick J. Toomey (June 25, 2022), available at https://www.banking.senate.gov/imo/media/doc/Joel%20Trotter%20and%20Kate%20Mitchell.pdf.

disqualification based on large accelerated filer status; and (v) increase the current maximum five-year IPO on-ramp period to 10 years.

The JOBS Act's IPO on-ramp succeeded by providing accommodations that streamlined the IPO process and promoted efficiency without compromising investor protection. The IPO on-ramp accommodations are limited, measured and based on analogous pre-existing principles or practices in federal securities regulation. The proposed enhancements to the IPO on-ramp represent a balanced approach to promote IPO activity without compromising investor protections, including all of the disclosure and liability requirements that continue to remain in place for all companies.

As updated, EGC would mean an issuer that had total annual gross revenues of less than $3.0 billion before beginning the IPO registration process until the last day of the fiscal year in which the IPO's fifth anniversary occurs. Thereafter, EGC status will continue until the end of the earliest fiscal year in which (i) revenues exceed $3.0 billion; (ii) the IPO's tenth anniversary occurs; or (iii) the issuer has more than $3.0 billion in non-convertible debt securities outstanding as of year-end.

2. Expand WKSI eligibility based on decades of successful experience.

Congress should expand availability of WKSI status. Currently, WKSI status is unduly limited. As updated, the WKSI definition would apply to companies with a non-affiliate market capitalization, or public float, of $75 million, rather than the public float threshold of $700 million currently required for WKSI status. The last two decades of successful experience have shown that the WKSI category merits expansion so that it overlaps with eligibility for short-form registration.

First, since the introduction of the WKSI definition nearly two decades ago, the automatic shelf registration process and other benefits available to WKSI issuers have significantly improved capital formation and market efficiency without compromising investor protection. When initially proposing the WKSI category, the SEC acknowledged that a much lower float test for WKSI status

could be appropriate. The last two decades of experience have demonstrated that to be the case.

Second, for the last three decades, companies with a public float of $75 million have been able to engage in short-form registration of securities using the integrated disclosure system based on those companies' periodic reporting. When proposing the short-form registration process, the SEC identified the $75 million public float threshold as the level at which a company's securities efficiently reflect available information about the company.

As a result, WKSI status should now be extended to all companies that otherwise satisfy the WKSI definition and have a public float of $75 million, rather than the current, arbitrarily high requirement of $700 million.

3. Adopt clarifications to eliminate needless inefficiencies remaining after the JOBS Act reforms.

(a) Streamline and clarify the EGC public filing condition to require public filing 10 days before the effective date of the IPO registration statement.

Congress should update the public filing condition for EGC IPO registration statements to require public filing at least 10 days before effectiveness of the registration statement. The current requirement for an EGC to publicly file its confidential IPO registration statement at least 15 days before conducting a road show is inefficient and subject to uncertain interpretations.

The update we propose would enhance efficiency, promote certainty, and builds on the SEC's recognition that modern "communications technology, including the Internet, provides a powerful, versatile, and cost-effective medium to communicate quickly and broadly." An EGC is permitted to begin SEC registration on a confidential basis if the EGC publicly files its previously confidential registration statement at least 15 days before conducting a road show.

This provision was intended to facilitate public review of the registration statement between the first public filing and the IPO pricing. However, experience has shown that 15 days is more than

ample time for that purpose. Moreover, the application of the current requirement can sometimes be unclear based on uncertainty surrounding the definition of a road show.

This proposed change would enhance efficiency by reducing the minimum time before pricing and provide greater predictability by referring to the date of effectiveness, which is more precise than conducting a road show, which is sometimes unclear. The updated public filing condition would require that an EGC must publicly file its registration statement, the nonpublic draft registration statement and all draft amendments at least 10 days before the effective date of the registration statement.

(b) Update the confidential review process for draft registration statements to conform to the updated EGC process.

Congress should update the process for voluntary confidential submission of non-EGC registration statements to conform to the updated requirement for EGCs. The updated confidential registration process for all IPOs, initial listings, and follow-on offerings would conform to the updated EGC process described above.

This change would facilitate capital formation and conform practice for non-EGCs to maintain consistency in the registration process if the changes to the EGC process are made. As updated, the confidential registration process would require that any issuer must publicly file its registration statement, the nonpublic draft registration statement and all draft amendments for (i) an IPO or an initial listing, at least 10 days before the effective date of the registration statement; and (ii) a follow-on offering (before the end of the twelfth month after the effective date of its IPO), at least 48 hours before the effective date of the registration statement.

(c) Update the on-ramp to include spin-off transactions.

Congress should update the EGC financial statement accommodation to clarify that the same accommodation applies to both IPOs and spin-off transactions. This would correct the aberrational effect on a spin-off of an EGC, which currently does

not benefit from the two-year financial statement accommodation now applicable only to IPO registration.

The EGC financial statement requirements should be comparable for both an IPO and a spin-off. Equalizing the requirements in both scenarios will promote efficiency and capital formation without compromising investor protection. As updated, the EGC financial statement requirements would clarify that an EGC may present two years, rather than three years, of audited financial statements in either an IPO or a spin-off.

(d) Clarify EGC financial statement obligations to prevent aberrational results.

Congress should update the EGC financial statement accommodation to clarify that an EGC need not provide financial statements for a period earlier than the two years of audited financial statements required in its IPO registration statement. In some instances, misinterpretations have arisen concerning the accommodation allowing an EGC to provide only two years of audited financial statements in its IPO registration statement, and not for any earlier period. This has arisen occasionally, for example, in the case of acquired company financial statements and for follow-on offerings involving an EGC that lost its EGC status during IPO registration.

This change would increase efficiency by ensuring that EGCs can consistently rely on the scaled disclosure accommodation by eliminating aberrational results that have sometimes required burdensome and unnecessary financial statement obligations. Absent this clarification, in some scenarios EGC issuers have needed to provide audited financial statements for financial periods preceding the earliest period in their IPO registration statements. The proposed update would clearly establish that an EGC need not, under any circumstances, provide financial statements for any period preceding the earliest period required to be presented in the IPO registration statement.

The updated requirements would provide that an EGC, as well as any issuer that went public using EGC disclosure accommodations, is not required to provide target company financial statements or pro forma financial information for any

period before the earliest period that the EGC presents in its IPO registration statement, including (i) for significant acquisitions, target company financial statements for any earlier period; and (ii) for follow-on offerings, financial statements for any earlier period by an issuer that went public using EGC disclosure accommodations.

(e) Remove aberrations in the market capitalization test for target company financial statements.

Congress should clarify that a company's market capitalization, for purposes of testing the significance of an acquisition or disposition, may include the value of all shares. When using a market capitalization test to determine whether an acquisition is significant enough to require target company financial statements, current requirements fail to account for the acquirer's full market capitalization by excluding from the calculation some classes of the acquirer's stock.

The significance test is designed to use market capitalization, or aggregate worldwide market value, to ensure that the evaluation of significance for acquisitions and dispositions compares measures that are consistent with fair value. Consistent with that objective, the test should include the market value of preferred stock (whether traded or convertible into common stock) and non-traded common shares that are exchangeable into traded common shares.

The proposed change would eliminate aberrations that result from contrary interpretations. As updated, the new requirements would clarify that a company testing the significance of an acquisition or disposition may include in its market capitalization the value of all of the acquirer's outstanding classes of stock, including preferred stock and non-traded common shares that are convertible into or exchangeable for traded common shares (based on trading value, conversion value or exchange value, as applicable).

(f) For any private company transitioning to public company status, permit the auditor to comply with SEC and PCAOB independence rules for the most recent year and AICPA or home-country independence for prior periods.

Congress should update the SEC and PCAOB auditor independence requirements to provide that the auditor of a private company that is transitioning to public company status (via IPO, spin-off or otherwise) must comply with SEC and PCAOB independence rules for the latest fiscal year, as long as the auditor is independent under AICPA or home-country standards for earlier periods. Requiring a private company's auditor to comply with SEC and PCAOB auditor independence rules for all prior years, rather than only the most recent year, can unnecessarily require hiring a different auditor to re-audit earlier periods even though the original auditor was actually independent under then-applicable standards.

As updated, this would allow the auditor of a private company that is transitioning to public company status (via IPO, spin-off or otherwise) to comply with SEC and PCAOB independence rules for the latest fiscal year, as long as the auditor is independent under AICPA or home-country standards for earlier periods. In scenarios where the auditor is independent under AICPA or home-country standards for earlier periods but the SEC and PCAOB independence rules imposes additional requirements, the auditor should be required to comply with SEC and PCAOB independence requirements only for the most recent year.

The more demanding SEC and PCAOB standards should not apply to earlier periods where the auditor has complied with the relevant auditor independence rules that applied to the private company. Under this balanced approach, the auditor must still satisfy SEC/PCAOB independence requirements for the most recent audited year while AICPA or home-country independence standards would suffice for all earlier years.

(g) Expand the protection for research reports to cover all securities of all issuers.

Congress should update the provision for research reports about EGC common equity to cover all securities of an EGC or any other issuer. This would expand the availability of the provision designed

to promote publication of research reports about EGCs by deeming the reports a non-offer.

The current provision offers limited protection of research reports in the context of an EGC's proposed offering of its common equity securities. After a decade of marketplace experience, the provision governing EGC research reports has proved wholly successful. Research analysts remain subject to robust regulation, including SEC Regulation AC certification and conflict disclosure requirements, FINRA conduct and communications rules and antifraud requirements. Based on this success, the research report provision warrants expansion. As expanded, the research report provision in Section 2(a)(3) of the Securities Act would cover research reports about any issuer that undertakes a proposed public offering of securities.

(h) Exclude QIBs and institutional accredited investors from the record holder count for mandatory Exchange Act registration.

Congress should update the mandatory Exchange Act registration threshold to exclude qualified institutional buyers (QIBs) and institutional accredited investors. The update in the JOBS Act to increase the record holder threshold should not include large institutional investors, such as QIBs or institutional accredited investors. Section 12(g) of the Exchange Act currently requires every issuer with more than $10 million in total assets and a class of equity security held of record by 2,000 or more persons (or 500 or more unaccredited investors) to register that class of equity security under the Exchange Act. In the decade since the JOBS Act raised this threshold, experience has shown that institutional investors can be excluded from the record holder count. As updated, Section 12(g) would provide that the registration threshold of 2,000 or more holders of record shall exclude QIBs and institutional accredited investors.

Appendix C

EXISTING REGULATORY PROTECTIONS UNCHANGED BY THE JOBS ACT OR BY ANY OF THE PENDING PROPOSALS

Investor protections that apply to all public companies including emerging growth companies

I. General Antifraud Provisions

A. ***Duty to Disclose All Material Information.*** Rule 12b-20 under the Securities Exchange Act of 1934 requires that companies must, in addition to providing the information expressly required in a report or other statement to the SEC, include any additional material information that may be necessary to make the required statements not misleading in light of the circumstances. Rule 408 under the Securities Act of 1933 imposes a similar requirement for disclosures in Securities Act registration statements.

B. ***Liability for False and Misleading Statements.*** Section 18 of the Exchange Act imposes liability for false and misleading statements in documents filed with the SEC to any person who makes such false or misleading statements, subject to applicable defenses.

C. ***Exchange Act Section 10(b) and Rule 10b-5.*** These provisions broadly prohibit fraudulent and deceptive practices and untrue statements or omissions of material facts in connection with the purchase or sale of any security. Unlike Section 18, these provisions apply to any information released to the public by the issuer and its subsidiaries, including press releases and annual and quarterly reports to stockholders.

D. ***Executive Officer Certification of Reports and Financial Statements.*** As discussed in more detail below, a company's certifying officers can be held personally liable for any untrue statement of material fact or material omission

necessary to ensure that statements contained in the reports or other statements to the SEC are not misleading.

E. ***Control Person Liability.*** Section 20 of the Exchange Act and Section 15 of the Securities Act of 1933 provide that a person controlling any person liable under those statutes may be liable jointly and severally and to the same extent as its controlled person for violations of the Exchange Act or the Securities Act.

F. ***Liability for Securities Offerings.*** Sections 11 and 12 of the Securities Act impose liability for any material misstatements or omissions made in connection with registered offerings conducted under the Securities Act. Section 5(b)(1) of the Securities Act prohibits the use of any prospectus that does not satisfy SEC requirements. In addition, Section 5(b)(2) of the Securities Act prohibits any registered sale of a security unless the security is preceded or accompanied by a prospectus that satisfies SEC requirements.

II. SEC Disclosure and Reporting Obligations

A. ***Regulation FD.*** Public companies must comply with Regulation FD's prohibition on selective disclosure of material nonpublic information.

B. ***Limitations on Use of Non-GAAP Financial Measures.*** Regulation G and Item 10(e) of Regulation S-K provide specific requirements for the presentation of any financial measures that are not in compliance with generally accepted accounting principles (GAAP). Non-GAAP financial measures must not be misleading and must include a reconciliation to the most nearly comparable GAAP measure.

C. ***Annual Reporting (Form 10-K).*** Under Section 13(a)(2) of the Exchange Act, Companies must, within 90 days of the

end of each fiscal year, file with the SEC annual reports that include:

1. ***Audited Financial Statements.*** Companies must provide (i) audited balance sheets, (ii) audited financial statements of income and cash flows and (iii) summary financial data. All financial statements must be prepared in accordance with, or reconciled to, GAAP.

2. ***Description of the Business.*** Regulation S-K requires annual reports to include (i) a description of the company's business, including segments, geographic areas, and competitors; (ii) risk factors affecting the business; (iii) pending legal proceedings; (iv) mine safety disclosures; (v) information about directors and officers, including their compensation and any related party transactions; (vi) management's discussion and analysis of financial condition and results of operations (MD&A); (vii) a description of material contractual obligations; (viii) and discussions of off-balance sheet transactions and market risks.

3. ***Market Information.*** Annual reports must also include information about the market for the company's common equity, related stockholder matters and company purchases of equity securities.

4. ***Description of Corporate Governance Policies.*** Annual reports must also disclose information about corporate governance polices and compliance with governance requirements such as (i) whether the company maintains a code of ethics for its principal executive officers, and if so, it must file such code with the SEC as an exhibit to its annual report; (ii) whether the company has at least one audit committee financial expert; (iii) a description of company's leadership structure and why this structure is appropriate; and (iv) a description of risk oversight by the company's board and how such oversight is administered.

D. ***Quarterly Reporting (Form 10-Q).*** Under Section 13(a)(1) of the Exchange Act, public companies must, within 45 days after each of the first three fiscal quarters of each year, file with the SEC quarterly reports that include:

1. ***Condensed Financial Statements.*** These interim financial statements are unaudited, but are reviewed by independent accountants and subject to the auditing standards for interim reviews.

2. ***Additional Information.*** Quarterly reports must update the annual report in several key areas including (i) MD&A; (ii) any changes in risk factors since the annual report; (iii) quantitative and qualitative disclosures about market risk; (iv) any material legal proceedings; (v) any changes in securities or defaults on senior securities; (vi) mine safety disclosure; and (vii) any other materially important event not reported in previous current reports.

E. ***Current Reporting (Form 8-K).*** Under Section 13(a)(1) of the Exchange Act, public companies must file current reports with the SEC within four business days after the occurrence of a reportable event, including events such as (i) the acquisition or disposition of significant assets; (ii) a change in auditors; (iii) any departure or resignation of directors or officers; (iv) material plans or contracts with officers and directors; and (v) many other events relevant to investors.

F. ***Certification of Reports.*** Each principal executive officer and principal financial officer must each make individual certifications on each annual and quarterly report.

1. ***Substance of Certification.*** Certifying officers must certify that (i) such officer has reviewed the reports; (ii) based upon the officer's knowledge, the report does contain any untrue statement of material fact or material omission necessary to ensure that statements in the reports are not misleading; and (iii) based on such officer's knowledge, the financial

statements, and other financial information included in the reports fairly present, in all material aspects, the company's financial condition and results of operations and cash flows.

2. ***Internal Control over Financial Reporting.*** Certifying officers are responsible for establishing, designing and maintaining effective internal controls, must annually assess and report on the effectiveness of the internal controls, and must disclose any change in the company's internal controls in annual and quarterly reports.

3. ***Disclosure Responsibilities to the Board of Directors, Audit Committee and Independent Auditors.*** Certifying officers must disclose to the board, audit committee and the company's auditors (i) all significant deficiencies and material weaknesses in the design or operation of internal controls and (ii) any fraud, whether or not material, that involves management or any other employee with a significant role in the company's internal controls.

4. ***Criminal Penalties Enforced Against Certifying Officers.*** Certifying officers that knowingly or willfully certify a report that does not meet the standards summarized above face criminal penalties of up to 20 years in prison and $5 million in fines.

G. ***Additional Requirements.*** The federal securities laws also require public companies to comply with additional disclosure and reporting requirements:

1. ***Accounts and Accounting Controls.*** Section 13(b)(2) of the Exchange Act requires companies to keep books and records that accurately and fairly reflect transactions and dispositions of assets and to maintain a system of internal accounting controls sufficient to provide reasonable assurance that transactions are executed in accordance with

management's authorization and related requirements.

2. ***Foreign Corrupt Practices Act.*** Section 30A of the Exchange Act prohibits public companies and any related persons acting on behalf of a company from bribing any foreign official, political party or candidate for political office for the purpose of obtaining or retaining business.

3. ***Prohibition on Personal Loans to Directors and Executive Officers.*** Section 402 of Sarbanes-Oxley prohibits any issuer from directly or indirectly extending, maintaining or arranging credit in the form of a personal loan to or for any director or executive officer.

4. ***Whistleblower Procedures and Rules.*** Section 301 of Sarbanes-Oxley requires audit committees to establish procedures for confidential and anonymous "receipt, retention, and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters." In addition, under the Dodd-Frank Act, the SEC has adopted rules for a program under which monetary awards are given to whistleblowers who disclose fraud directly to the SEC. For successful enforcement actions resulting in monetary sanctions exceeding $1 million, whistleblowers are entitled to receive between 10% and 30% of the monetary sanctions paid to the SEC.

5. ***Regulation M.*** Companies must comply with Regulation M whenever they make or propose to make a "distribution" of their stock. Under Regulation M, neither the company nor any of its "affiliated purchasers" may bid for or purchase, or induce others to bid for or purchase, any company stock during the applicable "restricted period" unless a specified exception is available.

6. ***Self-Tenders.*** Rule 13e-4 under the Exchange Act applies to any tender offer for a company's shares by the company or one of its affiliates. Under Rule 13e-4, the proposed purchaser must file with the SEC and promptly disseminate public disclosure regarding the proposed purchaser, the issuer and the offer. In addition, the offer must be held open for a minimum period, stockholders must receive withdrawal rights, and other requirements apply to such transactions.

7. ***Open-Market Repurchases.*** Public companies typically rely on Rule 10b-18 under the Exchange Act to secure a safe harbor from the anti-manipulation requirements of the Exchange Act in connection with open-market bids and purchases made by an issuer with respect to its own shares.

8. ***Going-Private Transactions.*** Rule 13e-3 under the Exchange Act imposes filing and disclosure requirements for going-private transactions (including share purchases and tender offers by a company or an affiliate of a company, as well as mergers, sales of assets and other transactions involving an affiliate of the affected company), that are likely to cause that company's shares to be held by fewer than 300 holders of record or to be delisted from a stock exchange.

III. Corporate Governance Standards

A. ***Exchange Act and Sarbanes-Oxley Corporate Governance Requirements.*** Companies listed on a national securities exchange are subject to the following corporate governance requirements pursuant to the Exchange Act and the Sarbanes-Oxley Act of 2002:

1. ***Audit Committee.*** Section 10A(m) of the Exchange Act requires listed companies to have an audit

committee that complies with applicable requirements.

a. ***Establish Audit Committee.*** The audit committee of the board of directors is directly responsible for the appointment, compensation, retention and oversight of the company's auditors.

b. ***Independence Requirement.*** Each member of the audit committee must be independent as defined by listing standards established in accordance with Rule 10A-3 under the Exchange Act.

c. ***Financial Expert.*** At least one member of the audit committee must have financial management expertise, in accordance with Section 407 of Sarbanes-Oxley.

d. ***Whistleblower Protection.*** The audit committee must establish procedures to receive and respond to any complaints and concerns regarding the company's accounting, accounting controls or auditing matters.

2. ***Independent Auditor.***

a. ***Public Company Accounting Oversight Board (PCAOB).*** Auditor must follow the standards established by the PCAOB.

b. ***Audit Partner Rotation.*** Companies must rotate their audit firm partners every five years, in accordance with Section 203 of Sarbanes-Oxley.

c. ***No Conflicts of Interest with Auditor.*** An outside auditor may not perform audit services for a company if a chief executive officer, controller, chief financial officer or

any other equivalent person of the company was employed by that auditor and participated in the audit of the company during the one-year period preceding the date of the audit, in accordance with Section 206 of Sarbanes-Oxley.

d. ***Prohibition on Improperly Influencing Auditors.*** Section 303 of Sarbanes-Oxley prohibits any officer or director of an issuer from directly or indirectly taking action to coerce, manipulate, mislead, or fraudulently influence any auditor of financial statements that are required to be filed with the SEC.

3. ***Duty of Attorneys to Report Violations.*** Section 307 of Sarbanes-Oxley requires attorneys to report specified violations to the company's chief legal officer or chief executive officer and, if such persons do not respond appropriately within a reasonable time, to report further to the company's board of directors or audit committee. These reporting obligations apply if the attorney is representing a company before the SEC and becomes aware of evidence of a material violation of federal or state securities laws or any other federal or state laws or a material breach of fiduciary duty by the company, or any officer, director, employee or agent of the company.

B. ***Listing Standards.*** Companies must also comply with the corporate governance standards established by any securities exchange upon which they list securities, such as the New York Stock Exchange or Nasdaq, which are often more rigorous.

IV. Proxy Statement Obligations

A. ***Duty to Deliver Proxy Statement (Regulation 14A).*** Solicitations of proxies or consents in respect of a US domestic public company's shares are subject to the SEC's proxy rules. Under Section 14 of the Exchange Act,

companies must deliver a detailed proxy statement to stockholders in connection with their annual meetings to address such issues as (i) the election of directors; (ii) selection of accountants; (iii) voting on stockholder proposals; (iv) adoption or approval of amendments to the corporate documents, stock option or other plans; and (v) other material issues and transactions.

B. ***Antifraud Requirements.*** In addition to general antifraud requirements under the federal securities laws, Rule 14a-9 under the Exchange Act specifically prohibits false or misleading statements made in connection with any proxy solicitation.

V. Reporting Obligations of Officers, Directors and Significant Stockholders

A. ***Reporting Persons (Forms 3 & 4).*** Under Section 16(a) of the Exchange Act, a US domestic public company's directors, certain designated officers, and 10% stockholders must continually report their direct or indirect beneficial ownership of the company's equity and derivative securities.

B. ***Disgorgement of Short-Swing Profits.*** Section 16(b) of the Exchange Act imposes strict liability on reporting persons to pay to the company any short-swing profits realized on a purchase and sale (or vice versa) of the company's shares within any six-month period, regardless of whether the reporting person was in possession of or used inside information in connection with the trades.

C. ***5% Stockholder (Schedule 13D).*** Under Section 13(d)(1) of the Exchange Act, any person who acquires direct or indirect beneficial ownership of more than 5% of a company's common stock must, within 5 business days after the acquisition, file a statement on Schedule 13D with the SEC, providing detailed information about their investment and intended actions. Institutional investors, passive investors and certain other persons may report their beneficial ownership on a short-form Schedule 13G.

Joel H. Trotter

Joel H. Trotter is a partner of Latham & Watkins LLP, ranked as the #1 capital markets law firm in the world by Bloomberg and Deal Point Data. He serves as co-chair of the firm's National Office, a centralized team of former SEC senior officials and experienced capital markets lawyers located in Washington, D.C. The firm's capital markets practice draws exceptional support from the National Office, providing an unparalleled ability to deliver sophisticated advice in real time on the toughest securities and listing issues clients face.

Mr. Trotter is the former global co-chair of the firm's public company representation practice and previously served for 10 years as co-chair of the Corporate Department in the firm's Washington, D.C. office. His practice focuses on capital markets transactions, securities regulation, mergers and acquisitions, and corporate governance. He represents issuers and underwriters in the public offering process and other SEC-related matters.

As a member of the IPO Task Force's leadership, and as one of two lawyers to serve on the Task Force, Mr. Trotter served as a principal author of the IPO-related provisions of the JOBS Act of 2012, enacted by a nearly unanimous Congress and signed by President Obama to reform the IPO process for emerging growth companies.

Law360 named Mr. Trotter one of the 10 Most Admired Securities Attorneys from over 1,000 nominations, noting his "deep expertise and excellent judgment" on strategic matters, for which he is "one of the firm's go-to sources for advice." Who's Who Legal recognized Mr. Trotter as a leading lawyer who is "adept at handling complex issues for major corporate clients." The Legal 500 US recommended Mr. Trotter for Corporate Governance (Tier 1), and Law Business Research named him to the International Who's Who of Capital Markets Lawyers.

Mr. Trotter received his law and undergraduate degrees from the University of Virginia, where he served as an editor of the *Virginia Law Review*, was named an Echols Scholar and was elected to the Raven Society.

Chairman HILL. Thank you, sir. Director, you are recognized for 5 minutes.

STATEMENT OF AMANDA SENN, DIRECTOR, ALABAMA SECURITIES COMMISSION

Ms. SENN. Good morning, Chairman Hill, Ranking Member Waters, and distinguished members of this committee. Thank you for inviting me to share with you the perspective of State securities regulators or regulators if you are from the South. It is a privilege for me to be here today, and I hope that you will consider our important roles as you continue deliberations on the legislation before this committee. My testimony will focus on preserving the role of States in overseeing our local markets, in facilitating responsible capital formation, and I will underscore our critical role in protecting investors.

The States are proud to be part of a team of regulators responsible for promoting stability in our financial markets and protecting investors. This heavy responsibility grew out of a recognized need by a State legislature over a century ago to promote transparency and honesty in our markets. Many of the principles first crafted by States were adopted at the Federal level to address the abuses that led up to the stock market crash of 1929. In the decades since, the U.S. capital markets have flourished, both providing extraordinary capital for businesses and safe opportunities for investors to build sound financial futures.

For the past 100 years, the United States of America has stood out before all other nations as the greatest economy and strongest engine for growth in history. There has never been anything like it before, and, in my opinion, never will be again. This, while being subjected to reasonable regulation, it is the foundation of our success. History has also shown us that we must constantly examine our regulatory framework and, where needed, adjust. Again, States have been leaders in this effort, including by developing new regulatory frameworks for capital formation, while also serving as the early warning detectors for new and emerging threats to investors.

As Congress examines further revisions to the Federal securities laws, including legislation aimed at capital formation in rural areas, we urge you to strongly consider and embrace the State's important role in capital formation and continue to promote our ability to oversee local markets. This ensures that smaller offerings, the kind most likely to reach main street investors, are being reviewed by us, that we are able to exclude bad actors from our markets, and that we can keep supporting our entrepreneurs and small businesses, all so that investors can continue to trust the local markets in which they invest.

It is hard to talk about capital formation, though, without mentioning the potential for fraud and abuse. I have witnessed firsthand the aftermath of the devastation brought about by bad actors. My first few cases as a young lawyer followed the 2008 financial crisis, triggered by the collapse of the subprime mortgage market. During the course of the investigation, I met with defrauded investors from all walks of life. I heard their stories, and their pain was palpable. I knew these people. They lived in our communities, and they turned to us for help. Many of our victims were small business

owners that had turned to private markets for funding when lenders were pulling back.

Fraudsters exploit every opportunity. Through the years, I have met with thousands of investors across Alabama and the U.S. I have sat with them in their living rooms as they tearfully shared the details of bad investments that ultimately caused them to lose their life savings. The 2008 crisis left investors distrustful of our markets and our regulators, and we have worked hard for years to rebuild that trust. While States responded to the concerns of investors, Congress worked hard to provide stronger regulatory frameworks to re-strengthen our markets and restore the trust of Americans.

Over 2,000 years ago, Euripides said, "They say the gods themselves are moved by gifts, and gold does more with men than words." While I still believe, and I know you do, too, that people are good, we are not infallible, and missteps can have major consequences. History has shown us over and over again, but it has also shown us that strong oversight and accountability have a significant deterrent impact, and that is why I urge you to consider the States' critical role in ensuring that our financial industry players are subject to some level of oversight and that they can be held accountable when the public demands they should be.

In closing, I want to emphasize that we do understand and share the same goals as the Members of Congress who support our robust public markets, and as we seek ways and opportunities for investors to strengthen these public markets, consider the States' important role. Thank you again, and I look forward to your questions.

[The prepared statement of Ms. Senn follows:]

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION

Written Testimony before the
House Financial Services Committee

Regarding

Beyond Silicon Valley: Expanding Access to Capital Across America

March 25, 2025

Submitted by

Amanda W. Senn
Director, Alabama Securities Commission
2024-2025 NASAA Enforcement Section Co-Chair

NASAA
Organized in 1919, the North American Securities Administrators Association ("NASAA") is the oldest international organization devoted to investor protection. NASAA is a voluntary association whose membership consists of the securities regulators in the 50 states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, the 13 provincial and territorial securities regulators in Canada, and the securities regulator in México. In the United States, NASAA is the voice of state securities agencies that protect investors, promote responsible capital formation, and support inclusion and innovation in the capital markets. U.S. NASAA members license firms and their agents, investigate alleged violations of securities laws, file enforcement actions when appropriate, and educate the public about investment fraud. NASAA members also participate in multi-state enforcement actions and information sharing. For more information, visit: www.nasaa.org.

Table of Contents

I. Professional Background

I serve as the Director of the Alabama Securities Commission ("ASC") where I have been employed since 2008. I am responsible for advising the ASC on securities-related matters, investigating and prosecuting fraudulent actions surrounding the sales of securities throughout the state of Alabama, and coordinating and litigating numerous multi-jurisdictional administrative, civil, and criminal matters. I am responsible for helping Alabamians with understanding their options for raising capital in compliance with state securities laws. To that end, our staff routinely meets with industry participants, or those desiring to enter the industry, to provide guidance, which helps them and, by extension, Alabama investors. During these meetings, we may discuss fundraising options and opportunities for expansion, challenges with technology, cybersecurity, and protecting sensitive data, communication and marketing issues, and plans for starting a business. I also serve as a legislative liaison for the ASC. In that capacity, I advocate for investor protection, market integrity, and the promotion of responsible capital formation in Alabama.

I am proud to lead and work with a team of approximately 70 colleagues who carry out the important work of the ASC. The ASC administers and enforces the following Alabama statutes: The Alabama Securities Act, The Industrial Revenue Bond Act, The Alabama Monetary Transmission Act, The Pre-Issue Procedures for Industrial Revenue Bonds, The Protection of Vulnerable Adults from Financial Exploitation Act, and Lisa's Law. The ASC is comprised of seven (7) Commissioners, consisting of the Attorney General, the Superintendent of Banks, the Commissioner of Insurance, two (2) State Bar Association licensed attorneys and two (2) Certified Public Accountants. The ASC is functionally divided into the following seven (7) divisions: (1) Directorate; (2) Legal; (3) Accounting/Personnel; (4) Information Technology; (5) Education and Public Affairs; (6) Enforcement; and (7) Licensing and Registration/Audits and Examinations.[1]

In 2024, the ASC added a Financial Innovation Division ("FID"). FID serves as a central resource for industry, investors, entrepreneurs, and small businesses in Alabama. It works to build relationships, conduct outreach and education, including educating innovators and small businesses on business practices and compliance requirements when offering private securities in Alabama, and provide strategic advice on policy issues. FID also focuses on industry outreach, primarily related to technology and the use of artificial intelligence, to determine how firms are utilizing these tools, how these tools can better serve investors, and how these tools may affect regulations governing the industry.[2]

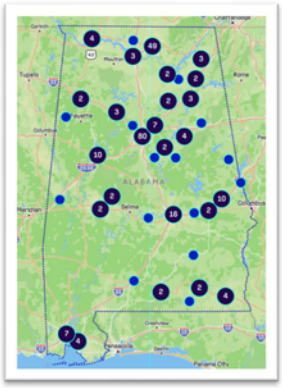
I am involved in various organizations at the local and state levels. Illustrative examples are as follows:

- I offer advice and other support to Alabama's State Small Business Credit Initiative programs, which are a catalyst for Alabama's entrepreneurial ecosystem. Notably, the Innovate Alabama Co-Investment Program invests directly in high-growth startups and small businesses alongside private investors that meet certain criteria. The Innovate Alabama Fund Program makes limited partner investments in seed to

[1] ASC, FY 2022-2023 Annual Report (July 2024).

[2] ASC, About the Financial Innovation Division (Last Accessed: Mar. 21, 2025).

early-stage venture capital funds committed to investing in Alabama.[3] These programs, called InvestAL for short, operate as an early-stage venture capital fund and fund of funds platform to support high growth, venture backable startups with headquarters in Alabama. All equity and limited partner investments require a minimum of a 1:1 private investment, must complete extensive due diligence, and agree to quarterly and annual reporting with the Treasury Department. Direct investment checks range from $5,000 to $1 million in exchange for equity (some ownership) of the company. Fund of fund investments are for established venture capital funds and generally range from $500,000 to $1 million.[4] There is a conscientious effort made in Alabama to reach across the state to provide direct funding. I have included an impact map as an illustration of the great work through Innovate Alabama. Related efforts to reach underserved communities are made by our depository institutions through the Community Development Financial Institutions ("CDFI") Initiatives, which Innovate Alabama's LendAL program leverages to generate economic growth and opportunity in some of the state's most underserved communities. According to CUCollaborate, a credit union consulting firm, in Alabama alone, there are 10 CDFI credit unions that serve over 300,000 members, supporting $2.9 billion in loans and $3.7 billion in deposits. These credit unions have provided nearly $18 million in total financial benefits to underserved communities.[5]



- I am vice chair of the Alabama Blockchain Study Commission, created in May 2024 by a state legislative resolution, which ASC helped pass. The Alabama Blockchain Study Commission's initial scope of study includes the regulation of blockchain technology and cryptocurrency, ways to protect the public, and the best applications of blockchain technology for the public and the private sectors. A final report is due in the 2026 legislative session.[6]

- I am the immediate past-president of the Alabama Association of Regulatory Boards ("AARB"). Membership is open to any consumer protection agency that issues

[3] Alabama operates the following five (5) small business financing programs: one (1) collateral support program, one (1) loan guarantee program, one (1) loan participation program, and two (2) equity/venture capital programs. The Alabama Department of Finance is the implementing entity that contracted with Innovate Alabama, a public corporation focused on entrepreneurship, technology and innovation, to administer all programs. Innovate Alabama has engaged the Alliance Capital Corporation to assist in loan administration. See U.S. Department of the Treasury ("Treasury Department"), Capital Program Summaries (Last Accessed: Mar. 21, 2025) to learn more about Alabama's programs.

[4] *See* Innovate Alabama, Governor Ivey Announces Innovate Alabama Awarded Nearly $98 Million to Support Alabama Small Businesses (June 18, 2024) and Innovate Alabama, State Small Business Credit Initiative: Boosting Small Business (Last Accessed: Mar. 21, 2025).

[5] *See generally* CUCollaborate (Last Accessed: Mar. 23, 2025).

[6] *See* Government Technology, Alabama Considers Blockchain, Crypto Use and Regulation (July 31, 2024).

professional or occupational licenses to individuals or companies conducting business in Alabama.[7]

- I help to address issues and promote awareness of elder abuse and investment fraud by participating in groups such as the Alabama Interagency Council for the Prevention of Elder Abuse. This council aims to strengthen partnerships, raise awareness, and advocate for the protection of elders through education, advocacy, and outreach, with the goal of preventing elder abuse.[8]

- I have served on the Montgomery Chamber of Commerce Board of Directors, helping me to understand the needs of our business community.

My passion for helping entrepreneurs, investors, small businesses, and startups throughout Alabama comes in part from my upbringing and family. I was born in Montgomery, Alabama, and have been a lifelong resident of the state of Alabama. Most of my family is from a rural, under-resourced area of our great state. I have spent much time in that remote southwestern part of our state. I am acutely aware of the challenges such communities face and the benefits that can come from having a state agency like mine go the extra mile to help them fully participate in our economy.

I also am actively involved in the North American Securities Administrators Association ("NASAA") where I am Co-Chair of the NASAA Enforcement Section and teach a securities litigation course for state securities regulators. Previously, I led NASAA's Cybersecurity Committee and NASAA's Broker-Dealer Section's Market and Regulatory Policy and Review Project Group.

The breadth and depth of NASAA's work is tremendous. More than 300 volunteers from member agencies serve on dozens of NASAA committees and project groups, including on NASAA's Corporation Finance Section Committee and Federal Legislation Committee. At home and as part of these committees, NASAA members protect investors from financial fraud and abuse, educate investors working to build secure financial futures, support responsible capital formation by businesses, and help ensure the integrity and efficiency of the capital markets that power the economy.

I am proud of my NASAA colleagues across the country. It is an honor for me and the ASC to be a part of the NASAA team of state securities administrators and other state agencies and offices that serve similar functions.

II. The Role of State Securities Regulation

The heavy responsibility of state securities regulation grew out of a recognized need by a state legislature over a century ago to promote transparency and honesty in the offer and sale of securities. Many of the principles of state securities regulation would soon be adopted in nearly all then-existing states, followed by adoption as well at the federal level to address the Stock Market Crash of 1929, also known as the Great Crash, which marked the beginning of the worldwide Great Depression.

[7] *See* AARB, About Us (Last Accessed: Mar. 21, 2025).
[8] *See* Alabama Code § 38-9D-3.

In the decades since, the U.S. capital markets have flourished overall, in part because we have used a state-federal system of securities regulation similar to the dual system of regulation used for banking.[9] Throughout this period, state governments have served critical roles in our dual system of regulation, including roles promoting innovation and detecting malfeasance. The states have been leaders in creating new ways to regulate securities offerings and transactions and associated intermediaries. Concurrently, the states have been leaders in detecting new threats against America's businesses and investors.

III. Summary of NASAA's Written Testimony

The purpose of this hearing is to examine legislation that intends to help entrepreneurs and small businesses, increase opportunities for all investors, and strengthen public markets. We certainly support these goals and understand the importance of healthy capital markets.

At this time, we at NASAA remain concerned that most of these proposals will not serve the laudable goals that we all share because they would continue to apply a theory that has not worked in practice as intended, specifically the theory that relaxing requirements for raising public and private capital will lead to more public companies. Since the initial Jumpstart Our Business Startups ("JOBS") Act of 2012 ("2012 JOBS Act"), researchers have shown that the 2012 JOBS Act failed to reduce costs of issuance and lead to a sustained recovery in initial public offering ("IPO") activity.[10] Further, there is evidence that pre-IPO valuation premiums for emerging growth companies ("EGCs") are concentrated in EGCs that take advantage of the reduced-accounting disclosure provision. These reduced-accounting EGCs have more speculative valuation profiles, lower institutional ownership, and a higher probability to destroy long-term shareholder value.[11]

In particular, NASAA remains very concerned with (i) the proposals that would preempt state securities authority and (ii) the proposals that would expand access to risky, opaque, and illiquid markets without making complementary enhancements to private securities disclosures. In turn, we will cover the following key areas of concern:

First, Congress should empower state governments that are helping entrepreneurs, small businesses, and startups, especially in underserved communities. Legislation such as (1) H.R. ___, the Small Entrepreneurs' Empowerment and Development ("SEED") Act; (2) H.R. ___, the Improving Crowdfunding Opportunities Act; (3) H.R. ___, the Restoring the Secondary Trading Market Act; and (4) H.R. ___, the Unlocking Capital for Small Businesses Act, would preempt state securities regulators, making it even more difficult for them to remain on the frontlines of supporting capital formation. As explained below, preemption has consequences for the preempted, our peer state and federal regulators, entrepreneurs and small businesses, and investors. Importantly, state governments likely would reduce funding for the great work that

[9] *See* NASAA, Our Story (Last Accessed: Mar. 23, 2025).

[10] *See* Maryland Securities Division Commissioner Melanie Senter Lubin, Written Testimony before the House Financial Services Committee Subcommittee on Capital Markets Regarding A Roadmap for Growth: Reforms to Encourage Capital Formation and Investment Opportunities for All Americans (Apr. 19, 2023) and NASAA, NASAA Report and Recommendations for Reinvigorating Our Capital Markets (Feb. 7, 2023).

[11] Omri Even-Tov, Panos N. Patatoukas, and Young S. Yoon, The Jobs Act Did Not Raise IPO Underpricing (Written: Sept. 30, 2020, Posted: Jun. 29, 2021, Last Revised: Nov. 22, 2024).

state securities regulators presently perform to educate and otherwise support entrepreneurs and small business leaders. Meanwhile, Congress may not increase resources for the federal government to fill the regulatory gap created by preemption.

Second, Congress should empower efforts by state governments that are helping to prevent and mitigate financial fraud and similar harms to investors. NASAA fully agrees that the U.S. Securities and Exchange Commission's ("SEC") definition of "accredited investor" requires reform. However, we fundamentally believe that building markets that are more trustworthy to more people throughout the United States starts with ensuring that additional access to private markets comes with additional transparency. In turn, as outlined below, we believe that none of the accredited investor bills under discussion should become law without Congress first incorporating private securities disclosure requirements into the legislation to strengthen investor protection and provide more information on these companies. For example, NASAA would be pleased to assist lawmakers with legislation to require improvements to the SEC's Form D regime.

Third, Congress should continue to empower state governments to have broader authority and resources for investor and issuer education and outreach, as well as for enforcement. State securities regulators have a unique advantage relative to our federal counterparts for education and outreach, specifically the fact that we have physical offices in all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. Investing in the states as hubs for investor and issuer education and outreach would help all of us achieve this shared vision of empowering all Americans, particularly those in hard-to-reach areas of the country, to participate more fully in our economy. Another advantage unique to the states is that we learn about new threats to businesses and investors simply by virtue of being members of the communities we serve. In combatting fraud, time is of the essence. To give regulators the best chance of recovering victims' losses, we must empower state governments to serve as early detectors of threats and give them the enforcement authority and tools necessary to prevent or mitigate harm.

IV. Congress Should Empower State Governments Serving America's Entrepreneurs and Small Business Leaders

A. Overview

As noted previously, state securities regulators play several vital roles in capital formation. Of note, we are on the frontlines of helping Main Street businesses understand their capital-raising options and on the frontlines of responding to inquiries about how to raise capital in a compliant way. For example, while the nature of the services varies across jurisdictions, it is common for our regulators to maintain websites or webpages devoted to capital formation resources, collaborate with local organizations to conduct seminars for small businesses, and respond to issuer inquiries. Variance of the types of services and engagement can occur for several reasons, including resources available in each state to support issuer education and outreach.

B. The Small Entrepreneurs' Empowerment and Development Act

To begin, Congress is considering the SEED Act alongside several proposals that would strengthen the SEC's capabilities around issuer outreach. NASAA remains supportive of proposals

that would enhance our dual system of securities regulation and the derivative partnership between state governments and the SEC. Strong state-federal coordination around issuer outreach enhances the registration process, minimizes disruption to businesses, and maximizes investor protection.

NASAA is pleased once again to support H.R. 1190, the Expanding Access to Capital for Rural Job Creators Act. This bill would amend Section 4(j) of the Securities Exchange Act of 1934 ("Exchange Act") to require the SEC's Office of the Advocate for Small Business Capital Formation to report on capital access issues faced by rural small businesses and women-owned small businesses.[12]

NASAA is also pleased once again to support H.R. ___, the Promoting Opportunities for Non-Traditional Capital Formation Act. This bill would require the SEC's Advocate for Small Business Capital Formation to provide educational resources and host events to promote capital raising options for traditionally underrepresented small businesses and businesses located in rural areas. In addition, it would require the Advocate for Small Business Capital Formation to meet at least annually with representatives of state securities regulators to discuss opportunities for collaboration and coordination with respect to these efforts.[13]

NASAA looks forward to reviewing more closely the draft legislation posted on March 21, 2025, that would amend Section 4 of the Exchange Act to direct the SEC to establish, within each division of the SEC that performs rule writing activities, an Office of Small Business, which would coordinate with the Office of the Advocate for Small Business Capital Formation on rules and policy priorities related to capital formation.[14] Initially, we are sympathetic to the suggestion that the SEC should consider additional ways to strengthen internal coordination because it could make their external communications with stakeholders, including state securities regulators, even more effective.

To continue and build on the above points, NASAA urges Congress to reconsider the SEED Act and specifically the net-negative consequences it would have for both small businesses and investors. In short, this bill would disempower the very securities regulators who are doing the most work to educate issuers about so-called "micro-offerings" (offerings up to $250,000), while also sowing further opportunities to defraud investors.[15] Specifically, the legislation would make the following changes:

- Amend Section 4 of the Securities Act of 1933 ("Securities Act") to establish a broad federal exemption (or safe harbor) for micro-offerings. Specifically, the safe harbor would exempt the sale of securities from registration requirements under the Securities Act if (A) the aggregate amount of all securities sold by the issuer (including all entities controlled by or under common control with the issuer), including any amount sold in reliance on the safe harbor during the 12-month period preceding the sale, does not exceed $250,000 and (B) the issuer is not disqualified as a bad actor.

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[12] *See* H.R. 1190, the Expanding Access to Capital for Rural Job Creators Act, 119th Congress, 1st Session (Feb. 11, 2025).

[13] *See* NASAA, NASAA Letter to HFSC Leadership Regarding HR 7977 Promoting Opportunities for Non-Traditional Capital Formation Act (June 10, 2022).

[14] *See* Discussion Draft of H.R. ___, SEC Small Business Offices, 119th Congress, 1st Session (Mar. 21, 2025).

[15] *See* Discussion Draft of H.R. ___, SEED Act of 2025, 119th Congress, 1st Session (Mar. 24, 2025).

- Direct the SEC to issue a new bad actor rule governing these micro-offerings within 270 days of the law's enactment and to make the new rule substantially similar to existing federal bad actor provisions.

- Amend Section 18(b)(4) of the Securities Act to add micro-offerings as a federal covered security thereby preempting state registration or qualification requirements with respect to micro-offerings.[16]

By way of background, presently, issuers of securities can offer and sell securities through many types of offerings *without* registering those securities with the SEC. They are exempt from registration. For example, issuers can use any of the following 10 types of federally exempt offerings up to the stated limits: (1) Section 4(a)(2) (no offering limit); (2) Rule 506(b) of Regulation D (no offering limit); (3) Rule 506(c) of Regulation D (no offering limit);[17] (4) Regulation A: Tier 1 ($20 million); (5) Regulation A: Tier 2 ($75 million); (6) Rule 504 of Regulation D ($10 million); (7) Regulation CF, Section 4(a)(6) ($5 million); (8) Intrastate: Section 3(a)(11) (no federal limit but states usually have limits between $1 and $5 million); (9) Intrastate: Rule 147 (no federal limit but states usually have limits between $1 and $5 million); and (10) Intrastate: Rule 147A (no federal limit but states usually have limits between $1 and $5 million).[18]

During the last three (3) decades, Congress and the SEC have enacted laws and regulations to further expand the ways and amounts that issuers can offer and sell securities without registering them with state governments. In 1996, the federal government enacted the National Securities Markets Improvement Act ("NSMIA"). This legislation preempted much state regulation of securities offerings. Among other changes, NSMIA preempted state registration of federal "covered securities" such as nationally traded securities and mutual funds. However, NSMIA still permitted state review and registration of non-covered securities and requirements to submit notice filings to state securities regulators of certain federal covered securities. In subsequent years, Congress continued to erode state authority by adding to the list of federal covered securities and thereby further restricting the ability of state governments to decide whether and how to regulate certain securities offerings.

NASAA urges Congress to reconsider the SEED Act for five (5) key reasons. First, this legislation is contrary to the purposes of the securities laws necessary for well-regulated capital markets and investor confidence. Second, it is simply unnecessary. There are many paths to raise capital, especially for an offering of $250,000 or less. Third, this legislation injects new

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[16] *See* 15 U.S.C. § 77r(c)(1) and 15 U.S.C. § 77r(c)(2)(A).

[17] See NASAA, NASAA 2022 Enforcement Report Based on an Analysis of 2021 Data (Sep. 2022) at 10 for information regarding related enforcement actions ("Although legitimate businesses may rely on private offering exemptions to lawfully raise capital, illegitimate issuers continue to exploit the exemptions to defraud the general public. Regulation D ensures that illegitimate issuers no longer need to file registration statements with federal regulators, and for all practical purposes their actions are exempt from federal review. Coupled with the federal preemption of state regulation, Regulation D allows white-collar criminals and bad actors to act in a regulatory vacuum – devoid of meaningful oversight and mechanisms to prevent abuse. Not surprisingly, state regulators reported numerous instances of misconduct tied to Regulation D private offerings. In 2020, state securities regulators opened 196 investigations and 67 enforcement actions involving offerings reliant upon the law. This includes 69 investigations and 24 enforcement actions relating to Rule 506(c), which generally permits issuers to publicly advertise unregistered securities so long as they limit sales to accredited investors.").

[18] *See* SEC Overview for Exemptions to Raise Capital (Last Updated: Apr. 6, 2023) (setting forth a chart that provides certain regulatory information and requirements that govern 10 different avenues for raising capital under existing exemptions from federal securities laws).

complexity into an exemption framework that is complex already.[19] Fourth, registration and notice filings (which essentially are brief communications to the states) are the regulatory tools that state regulators need and use to identify who is operating in their states. Regulators cannot protect investors without a line of sight into companies selling these securities. State regulators cannot help entrepreneurs and small business leaders if they do not know who is operating in their jurisdictions. Fifth, absent any registration or notice filing to the states, state securities regulators may first learn about the transactions through other communications such as a call from a concerned citizen or investor and be obligated to open an investigation, all without the benefit of the information that would have been communicated through these filings. For some issuers, it may require more resources to respond to the investigation than it would have required to prepare a basic filing. At the end of the day, this legislation would reduce educational and compliance support for the very entrepreneurs and small businesses that state securities regulators presently are helping.

In sum, we continue to support enhancements to the SEC's ability to conduct issuer outreach and coordinate and communicate with state securities regulators in this area. Separately but relatedly, we cannot support the SEED Act and the preemptive consequences that it would have for state securities regulators. We remain open to discussion about state small company offering registrations and ways to improve related processes.[20]

C. The Improving Crowdfunding Opportunities Act

To begin, the history related to crowdfunding regulation in the United States is important. The history speaks to why state securities regulators cannot support H.R. ___, the Improving Crowdfunding Opportunities Act.

As background, state governments have long been supporters of innovation in capital raising. For example, over a decade ago, state legislatures and regulators were the first to enact tailored crowdfunding laws. They did so with the twin goals of benefiting local businesses and the Main Street investors who would be asked to invest in them.[21]

Subsequently, Congress enacted a one-size-fits-all federal version of crowdfunding and directed the SEC to promulgate rules to implement another capital raising path for issuers. Today, SEC Regulation Crowdfunding ("Regulation CF") sets forth requirements for raising capital through crowdfunding. By way of example, Regulation CF requires all transactions under Regulation CF to occur online through an SEC-registered intermediary, which can be either a broker-dealer or a funding portal; permits certain companies to raise a maximum aggregate amount of $5 million through crowdfunding offerings in a 12-month period; limits the amount individual non-accredited investors can invest across all crowdfunding offerings in a 12-month period; and requires disclosure of information in filings with the SEC and to investors and the intermediary facilitating the offering.

Presently, for various reasons, Regulation CF deems several types of issuers ineligible to

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[19] *See*, *e.g.*, SEC Overview for Exemptions to Raise Capital (Last Updated: Apr. 6, 2023).

[20] *See* NASAA, Small Company Offering Registration (SCOR) (Last Accessed: Mar. 21, 2025).

[21] In short, crowdfunding refers to a financing method in which money is raised through soliciting relatively small individual investments or contributions from a large number of people. If a company would like to offer and sell securities through crowdfunding, they must comply with state and federal securities laws.

rely on Regulation CF to conduct a transaction. These include issuers that must file reports under Sections 13(a) or 15(d) of the Exchange Act, investment companies, blank check companies, disqualified 'bad actor' issuers, and issuers that have failed to file the annual reports under Regulation CF during the two (2) years immediately preceding the filing of the offering statement.[22]

Crowdfunding was meant to allow individual investors to invest in small, local businesses. The idea to pool investments made through a special purpose vehicle ("SPV") or fund organized to invest in, or lend money to, a single company was particularly controversial. According to SEC staff in 2019, many issuers elected not to pursue an offering under Regulation CF due to the inability to conduct a transaction with an SPV as a co-issuer. In short, without an SPV, a large number of investors on an issuer's capitalization table can be unwieldly and potentially impede future financing.[23]

Beginning in 2021, the SEC permitted the use of certain SPVs in Regulation CF transactions. Specifically, following notice and comment, the SEC amended SEC Rule 3a-9 under the Investment Company Act of 1940 ("Investment Company Act") to add a new exclusion for limited-purpose crowdfunding SPVs and to include conditions for crowdfunding SPVs that are designed to ensure that the vehicle acts solely as a conduit for investments in a crowdfunding issuer. In short, when a crowdfunding SPV is used, the crowdfunding issuer and the crowdfunding vehicle are co-issuers under the Securities Act. Both must comply with the requirements of Regulation CF and other applicable securities laws.[24]

Further, Regulation CF presently sets offering limits for individual non-accredited investors whereas no limits exist for accredited investors.[25] Specifically, individual non-accredited investors can be sold either (i) the greater of $2,500, or 5 percent of the greater of the investor's annual income or net worth, if either the investor's annual income or net worth is less than $124,000; or (ii) 10 percent of the greater of the investor's annual income or net worth, not to exceed an amount sold of $124,000, if both the investor's annual income and net worth are equal to or more than $124,000.[26]

For similar reasons to the SPV issue, the investment limits on non-accredited investors have been the subject of much policy debate in recent years. For example, some market participants want to increase the limits and allow more individual investments into the marketplace. In addition, for similar reasons, some market participants want the limits to apply on a per-investment basis rather than across all crowdfunding offerings.[27] These efforts overlook the fact that growth in the market, or the lack thereof, is normally driven by the quality of the issuers.

Beginning in 2021, the SEC amended the calculation method for the investment limits for non-accredited investors. The purpose of the change was to allow them to use the *greater* of their

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[22] *See* 17 CFR § 227.100(b).

[23] *See* SEC, Report to the Commission Regulation Crowdfunding (June 18, 2019) at 57-59.

[24] *See* SEC Final Rule, Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets, Rel. Nos. 33-10884 and 34-90300 (Nov. 2, 2020) at 156-81.

[25] *See* SEC, Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets (Last Updated: Nov. 30, 2022).

[26] *See* 17 CFR § 227.100(a)(2).

[27] *See* SEC, Report to the Commission Regulation Crowdfunding (June 18, 2019) at 40.

annual income or net worth rather than the *lesser* of their annual income or net worth. The change conformed Regulation CF with Tier 2 of SEC Regulation A and applied a consistent approach to limit potential losses investors may incur in offerings conducted in reliance on the two (2) exemptions. When making the change, the SEC stated, "[W]e are not aware of evidence since Regulation Crowdfunding's adoption to indicate this market requires a more stringent approach to investment limits than other exemptive regimes."[28]

With respect to required disclosures under Regulation CF transactions, the offering statement must include specified information, including a discussion of the issuer's financial condition and financial statements. The requirements applicable to financial statement disclosures are scaled and based on the amount offered and sold in reliance on Regulation CF within the preceding 12-month period. For example, for issuers offering $124,000 or less, they only need to disclose the financial statements of the issuer and certain information from the issuer's federal income tax returns, both certified by the principal executive officer of the issuers, unless audited financial statements are available.[29]

As noted above, states have a limited but important role with respect to crowdfunding. Section 18(b) of the Securities Act, as amended, preempts state securities laws' registration and qualification requirements for crowdfunding offerings made pursuant to Section 4(a)(6) of the Securities Act.[30] Nevertheless, states can and often do require that notice filings be made for offerings conducted under Regulation CF.[31] In addition to requiring notice filings of federal crowdfunding offerings, over three (3) dozen state governments have enacted rules or other requirements specific to crowdfunding transactions involving investors in their states. These capital raising paths under state laws are tied to federal capital raising paths where the federal government has not preempted state registration or qualification. Specifically, most state crowdfunding laws are linked to the federal "intrastate" offering exemption, namely Section 3(a)(11) of the Securities Act and its corresponding Rule 147. A few state laws are tied to the federal exemption in Rule 504 of Regulation D.[32]

As noted, NASAA cannot support H.R. ___, the Improving Crowdfunding Opportunities Act. This legislation would weaken the minimal investor protections that exist today for crowdfunding offerings, make other significant changes to an already scaled back regulatory framework, and preempt state securities law requiring registration for secondary transactions.[33] Specifically, the legislation would direct the following amendments:

- Amend Section 18(b)(4)(A) of the Securities Act to preempt state registration or qualification of secondary transactions by adding "section 4A(b) or any regulation issued under that section" as a type of report filed with the SEC that triggers application of covered security status under Section 18(b)(4)(A). As background, Section 4A of the

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[28] *See* SEC Final Rule, Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets, Rel. Nos. 33-10884 and 34-90300 (Nov. 2, 2020) at 155.

[29] *See* 17 CFR § 227.201(t). *See also* SEC, Fact Sheet: JOBS Act Inflation Adjustments (Sep. 9, 2022).

[30] *See* SEC Final Rule, Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets, Rel. Nos. 33-10884 and 34-90300 (Nov. 2, 2020) at 147-48.

[31] *See* NASAA, UFT Acceptance Matrix (Last Updated: Oct. 12, 2023).

[32] *See* NASAA, Intrastate Crowdfunding Resources (Last Accessed: Mar. 21. 2025).

[33] *See* Discussion Draft of H.R. ___, the Improving Crowdfunding Opportunities Act, 119th Congress, 1st Session (Feb. 5, 2025).

Securities Act required, among other things, that issuers and intermediaries that facilitate transactions between issuers and investors in reliance on Section 4(a)(6) of the Securities Act provide certain information to investors and potential investors, take other actions, and provide other information to the SEC. Section 18(b)(4)(C) of the Securities Act, as amended, separately preempted state securities laws' registration and qualification requirements for offerings made pursuant to Section 4(a)(6).

- Amend Section 4A(c) of the Securities Act to make funding portals liable for fraud or misrepresentation by issuers only if the funding portals participated in the fraud or were negligent in discharging their due diligence obligations. As background, this change would reverse an SEC interpretation of Regulation CF that treats funding portals as issuers for liability purposes.[34]

- Amend Section 4A(a) of the Securities Act and the definition of "financial institution" in Section 5312 of Title 31, United States Code, to make clear funding portals are not subject to anti-money laundering, "Know Your Customer," and associated Bank Secrecy Act requirements.

- Amend Section 3(a) of the Exchange Act to repeal restrictions on curation by allowing funding portals to offer impersonal investment advice by means of written material, or an oral statement, that does not purport to meet the objectives or needs of a specific individual or account.

- Amend paragraph (t)(1) of Section 227.201 of Title 17, Code of Federal Regulations, (which governs the financial statement requirements for offerings that, together with all other amounts of offerings sold within the preceding 12-month period, have, in the aggregate, target offering amounts of $124,000), to increase the permitted target offering amount to no more than $250,000, and to direct documentation around the unavailability of financial statements that have been reviewed or audited by an independent public accountant.

- Amend Section 4A(f) of the Securities Act to permit certain investment companies to rely on the SEC's crowdfunding exemption.

- Amend Section 4(a)(6) of the Securities Act to codify and increase the offering limit from $1 million to $10 million.[35]

- Amend Section 4(a)(6) of the Securities Act to reverse recent SEC changes to the investment limits for individual non-accredited investors and codify a new "does not exceed 10 percent of the annual income or net worth of such investor" standard that omits a cap on the maximum aggregate amount that can be sold to investors.

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[34] *See* 17 CFR § 227.503(a)(3)(ii).

[35] The SEC adopted Regulation CF in 2015. Regulation CF initially provided an exemption from registration for certain crowdfunding transactions that raise up to $1.07 million in a 12-month period. Effective March 2021, the SEC increased Regulation CF's offering limit from $1.07 million to $5 million. As this increase was far in excess of the inflation-based increase that would otherwise have occurred, the SEC has not since increased Regulation CF's offering limit for inflation. *See* SEC, Fact Sheet: JOBS Act Inflation Adjustments (Sep. 9, 2022).

- Make technical corrections throughout the Securities Act to fix flawed references to Section 4(a)(6) and Section 4(6)(B).

NASAA cannot support this legislation for several reasons. While the SEC's mission includes the facilitation of capital formation and the protection of investors, the SEC does not take the kind of grassroots approach used by the states to support issuers and investors in the crowdfunding market. The SEC was slow to establish a new regime for crowdfunding transactions,[36] has been slow or unwilling to take enforcement actions in crowdfunding-related cases that involve losses under $1 million, and has lacked the resources to engage with startups throughout the United States regarding their options for raising capital under state and federal crowdfunding laws.[37] Given the SEC's record of deprioritizing crowdfunding issuers and investors, Congress should understand that further preemption of the states in this area would expand the *de facto* regulatory gap that exists with respect to the regulation of crowdfunding transactions. That gap, coupled with the protections for funding portals contemplated under this proposal, would lead to more aggressive practices by funding portals targeting investors, fewer remedies for harmed investors, and ultimately damage the credibility of all offerings made under the SEC's Regulation CF.

As noted above, NASAA continues to invite discussions with lawmakers and stakeholders on viable pathways for promoting responsible capital formation for the benefit of investors and businesses alike.

D. The Restoring the Secondary Trading Market Act

As highlighted above, NASAA and its members play a critical role in the regulation of secondary trading of certain securities. In short, the law provides automatic preemption from state laws for the secondary trading of securities that are listed and traded on a national securities exchange. Appropriately, the secondary trading of securities for issuers not subject to SEC reporting requirements must comply with state securities laws.

Collectively, NASAA and its members endeavor to make compliance with applicable secondary trading requirements as easy as possible for industry by administering the "manual exemption" approach. In short, historically, manuals were printed publications with financial information about unlisted securities that investors could access in their local library or through their investment professionals. Today, manuals generally are easily accessible sources of online information. The states allow for secondary trading of securities without repeating processes associated with the initial securities offering where qualifying companies meet certain financial standards and key information about the company is published in a nationally recognized securities manual or its electronic equivalent. With this approach, investors have access to the types of information that the company would have to make to retail investors through the state securities registration process.

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[36] The SEC adopted final rules permitting companies to offer and sell securities through crowdfunding in 2015, three (3) years after enactment of the 2012 JOBS Act. *See* SEC, SEC Adopts Rules to Permit Crowdfunding, Press Release 2015-249 (Oct. 30, 2015).

[37] Roughly two (2) dozen states enacted crowdfunding laws before the SEC implemented Regulation CF. *See* Stacy Cowley, Tired of Waiting for U.S. to Act, States Pass Crowdfunding Laws and Rules (June 3, 2015) ("Twenty-two [22] states and the District of Columbia have enacted such rules, nine [9] of them in the last six [6] months. Eleven [11] states are considering creating such laws and procedures. Three [3] more states — Florida, Illinois and New Mexico — have rules or legislation awaiting the governor's signature.").

Given that the above-outlined approach exists, NASAA urges Congress to reconsider H.R. ___, the Restoring the Secondary Trading Market Act.[38] This legislation would erase oversight by state governments in the secondary sales of offerings, including offerings made under Tier 2 of the SEC's Regulation A.[39] Specifically, this bill would make the following changes:

- Amend Section 18(a) of the Securities Act to prohibit state governments from regulating the "off-exchange secondary trading in securities of an issuer that makes current information publicly available". The bill does not specify which, if any, existing SEC definition of "off-exchange secondary trading" to use.

- Specify that making "current information publicly available" includes "the information required in the periodic and current reports described under paragraph (b) of [S]ection 230.257 of Title 17, Code of Federal Regulations." Section 230.257 refers to periodic and current reporting for Regulation A, Tier 2 offerings of securities such as annual reports on Form 1-K.[40]

- Specify that making "current information publicly available" also includes "the documents and information specified in paragraph (b) of section 240.15c2–11 of title 17, Code of Federal Regulations." Section 240.15c2–11 of Title 17, Code of Federal Regulations, requires broker-dealers to review and maintain current information about the issuer of a security before publishing price quotes in the over-the-counter market.

This legislation is unnecessary given the deliberate and conscientious efforts by states to streamline certain processes while ensuring investors have the information they need to make informed decisions. As explained above, a majority of states maintain a manual exemption to facilitate secondary trading. In many states, the SEC's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system can be a designated source for purposes of the manual exemption.

In addition, this legislation would not solve the longstanding illiquidity problems in the Regulation A market.[41] As a threshold matter, secondary trading does not provide liquidity to the

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[38] *See* Discussion Draft of H.R. ___, the Restoring the Secondary Trading Market Act, 119th Congress, 1st Session (Feb. 20, 2025).

[39] *See* SEC, SEC Report to Congress: Access to Capital and Market Liquidity (Aug. 2017) at 53 ("Additionally, a lack of secondary market liquidity may discourage investors from participating in Regulation A offerings at valuations that the issuer finds attractive.").

[40] *See* 17 CFR § 230.257.

[41] In August 2020, the SEC issued a report—as mandated by Congress—on the performance of Regulation A and Regulation D. SEC staff examined Regulation A offerings conducted between June 2015 and the end of 2019. During this time period, the total amount raised under Regulation A was $2.4 billion, including $2.2 billion under Tier 2 and $230 million under Tier 1. Issuers sought an average of $30.1 million in Tier 2 offerings but raised on average only $15.4 million. In Tier 1 offerings, issuers sought an average of $7.2 million and raised $5.9 million. Data is not available to show the extent to which retail investors other than accredited investors were participants in these offerings. SEC staff found that the typical issuer does not experience an improvement in profitability, continuing to realize a net loss in the years following an offering that utilizes Regulation A. This was based on available data, which necessarily overstated the success rate because it only included issuers that continued to file periodic reports after the offerings and not those that ceased operations and reporting. Despite the infusion of capital, only 45.8 percent of issuers continued filing periodic reports for three (3) years following the offering. *See* SEC, Report to Congress on Regulation A / Regulation D Performance As Directed by the House Committee on Appropriations in H.R. Rept. No. 116-122 (Aug. 2020) at 88, 89, 91, 94, and 98.

issuer but to the selling security holder. Further, the federal government preempted the states from reviewing primary offerings conducted under Regulation A, Tier 2 because it believed such preemption would stimulate use of this pathway for raising capital. Yet, this market still suffers from a lack of demand among other reasons because investors want to avoid high costs, high information asymmetries, and high investment minimums associated with these deals.[42] Similarly, a variety of factors having nothing to do with state regulations, including inefficiencies in share transfer recordkeeping and the fact that the issuer usually has a right of first refusal, still hinder the secondary trading of these securities. Inaction with respect to those factors, coupled with further preemption of state governments, would not spur additional demand for these securities.[43] If Congress wanted to take additional action with respect to the Regulation A market, it would be useful to direct the SEC to research and analyze whether it even makes sense to maintain the Regulation A regulatory framework at all given the persistent lack of demand for these deals and the overall poor performance of many of the companies that have relied on Regulation A.

To emphasize, NASAA remains committed to further reviews of the existing manual exemptions and, if appropriate, promulgating a model rule for states to consider and determine if changes to their existing rules are warranted. In April 2023, NASAA published a concept release to seek comment to inform NASAA's rulemaking on this front. In addition to other input, the request for comment sought data on the use of the manual exemption and suggestions for how the exemption could be improved from an investor protection standpoint.[44] NASAA received one (1) comment letter, from OTC Markets Group Inc.[45]

In sum, NASAA continues to invite discussions with lawmakers and stakeholders.

E. The Unlocking Capital for Small Businesses Act

To begin, it is important to recall that NASAA and its members play a critical role in the licensing and registration of investment professionals, including broker-dealer agents and investment adviser representatives. Our work helps to ensure that the brokerage and investment advisory industries can be trusted with other people's money. Given that licensing and registration is a core state function, NASAA is especially concerned with any legislative or regulatory efforts to reduce our role.

In that vein, we are justifiably concerned about H.R. ___, the Unlocking Capital for Small Businesses Act (the "Unlocking Capital Act").[46] Rather than facilitating the sustainable growth of small businesses, it would facilitate the further growth of unregulated markets and weaken the government's oversight of those who market risky investments to retail investors.

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[42] *See* Faith Anderson, Prepared Remarks of Faith Anderson for the SEC Investor Advisory Committee Regarding the Growth of Private Markets (Mar. 2, 2023) at 4.

[43] *See* Andrea Seidt, Prepared Remarks of Andrea Seidt for the SEC SBCFAC Regarding Secondary Market Liquidity (Aug. 2, 2022) at 2.

[44] *See* NASAA, Notice of Request for Comment Regarding the Uniform Securities Act Manual Exemption (Apr. 26, 2023).

[45] *See* OTC Markets, Comment Letter to Notice of Request for Comment Regarding The Uniform Securities Act Manual Exemption (May 26, 2023).

[46] *See* Discussion Draft of H.R. ___, the Unlocking Capital for Small Businesses Act, 119th Congress, 1st Session (Feb. 20, 2025).

In short, the legislation would establish the following two (2) categories: private placement brokers and finders. The bill would allow these new registrants to engage in many activities that have been regulated for decades because of investor protection concerns.

Regarding the first category, this bill would establish a registration safe harbor for private placement brokers. To establish the safe harbor, the bill would direct the SEC to promulgate regulations that are "no more stringent than those imposed on funding portals" and "require the rules of any national securities association [such as the Financial Industry Regulatory Authority ("FINRA")] to allow a private placement broker to become a member of such national securities association subject to reduced membership requirements".[47] The bill also defines "private placement broker" in three (3) parts. First, such brokers are persons who receive transaction-based compensation for effecting a transaction by introducing an issuer of securities and a buyer of securities either (A) for the sale of a business effected through the sale of securities or (B) for the placement of securities that are exempt from registration requirements under the Securities Act.[48] Second, with respect to a transaction for which such transaction-based compensation is received, private placement brokers cannot handle or take possession of funds or securities or engage in any activity that requires registration under state or federal law as an investment adviser. Third, private placement brokers cannot be a finder as defined by the Unlocking Capital Act. By virtue of the above-described amendment to Section 29 of the Exchange Act, private placement brokers would be encouraged under this bill to self-certify their status as a private placement broker.

Moreover, the Unlocking Capital Act would establish a disclosure regime for private placement brokers. Specifically, the legislation would direct these brokers to disclose in clear, conspicuous writing to all transaction parties the broker's role in the transaction, the compensation to the broker in connection with the transaction, the person to whom any such payment is made, and the direct or indirect beneficial interest in the issuer of the broker, an associated person of the broker, or the immediate families of the broker or the associated person.

Regarding the second category, the Unlocking Capital Act would establish a nonregistration safe harbor for finders. Specifically, the bill would exempt finders from registration requirements under Section 15 of the Exchange Act and would direct voluntary participation, if any, in national securities associations such as FINRA. The bill defines "finders" to be private placement brokers who (A) receive transaction-based compensation of equal to or less than $500,000 in any calendar year; (B) receive transaction-based compensation in connection with transactions that result in a single issuer selling securities valued at equal to or less than $15 million in any calendar year; (C) receive transaction-based compensation in connection with transactions that result in any combination of issuers selling securities valued at equal to or less than $30 million in any calendar year; or (D) receive transaction-based compensation in connection with fewer than 16 transactions that are not part of the same offering or are otherwise unrelated in any calendar year. Again, by

[47] Title III of the 2012 JOBS Act enacted contains provisions relating to securities offered or sold through crowdfunding. The SEC's Regulation CF and FINRA corresponding set of Funding Portal Rules set forth the principal requirements that apply to funding portal members. Funding portals must register with the SEC and become a member of FINRA. Broker-dealers contemplating engaging in the sale of securities in reliance on Title III of the 2012 JOBS Act must notify FINRA in accordance with FINRA Rule 4518. *See* FINRA, Funding Portals and Crowdfunding Offerings (Last Accessed: Mar. 21, 2025) and SEC, Registration of Funding Portals (Last Updated: Jan. 18, 2017).

[48] The legislation further states that the transaction-based compensation cannot be for a transaction with respect to "(I) a class of publicly traded securities; (II) the securities of an investment company (as defined in section 3 of the Investment Company Act of 1940); or (III) a variable or equity-indexed annuity or other variable or equity-indexed life insurance product".

virtue of the amendment to Section 29 of the Exchange Act, finders would be encouraged to self-certify their status as a finder.

Last and importantly, the Unlocking Capital Act would amend Section 15 of the Exchange Act to prevent state governments from imposing registration and other requirements on private placement brokers and finders that are greater than the new safe harbors. Stated differently, state governments seeking to register private placement brokers would need to set up new bespoke registration and regulatory regimes for private placement brokers. In addition, state governments could no longer require finders to apply to be registered or licensed with the state before they begin to solicit investors in the states.

The above-outlined reforms would require several changes to the law. Specifically, the bill would implement the following changes:

- Amend Section 15 of the Exchange Act to add a registration safe harbor and disclosure regime for private placement brokers.
- Amend Section 15 of the Exchange Act to add a nonregistration safe harbor for finders.
- Amend the definition of "financial institution" in Section 5312 of Title 31, United States Code, to remove "private placement broker" from the universe of SEC-registered brokers that can be considered financial institutions.[49]
- Amend Section 3(a)(4) of the Exchange Act, which defines "broker," to add "private placement brokers" to the list of exceptions from the Exchange Act broker definition.[50]
- Amend Section 29 of the Exchange Act to protect issuers from voided contracts if they obtain a self-certification by the private placement broker and/or finder of their status and the issuer did not know or had no reasonable basis to believe the self-certification was false.[51]
- Amend Section 15 of the Exchange Act to preempt state governments from enforcing "any law, rule, regulation, or other administrative action that imposes greater registration, audit, financial recordkeeping, or reporting requirements on a private placement broker or finder [than those required by the Unlocking Capital Act]."

To emphasize, this bill would take away the authority of states to decide how best to structure a regulatory framework appropriate for the types of activities conducted by these investment professionals. Prior to conducting business in a state, most securities brokers must apply for registration to demonstrate that they have the requisite knowledge, skills, and business background to solicit and sell securities to investors. State securities regulators cannot protect investors or otherwise support responsible capital formation if they lack a line of sight into who is promoting securities in their states.

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[49] *See* 31 U.S.C. § 5312.
[50] *See* 15 U.S.C. § 78c(a)(4).
[51] *See* 15 U.S.C. § 78cc.

In sum, NASAA continues to invite discussions with lawmakers and stakeholders. Here, we continue to welcome the support of lawmakers in facilitating the cooperation of the SEC and FINRA to develop a right-sized regulatory framework for finders that preserves state authority.[52] This approach would place the states, the SEC, and FINRA on a level playing field and be consistent with how the United States has approached the licensing of securities professionals for decades.

V. Congress Should Empower Efforts by State Governments to Continue to Prevent and Mitigate Financial Fraud and Similar Harms to Investors

NASAA and its members aim to protect the investing public from financial harm. Securities regulators routinely initiate enforcement actions to protect investors in their jurisdictions from the sale of unregistered securities and the provision of unlicensed investment advice to the sale of unsuitable products and flat-out fraud. State securities regulators are on the frontlines working to stop unlawful schemes, seek relief for investors, deter bad conduct, and obtain justice for victims.[53] In 2023, state securities regulators reported initiating 1,186 enforcement actions against 2,660 parties, including 909 administrative actions against 2,322 respondents, 102 civil actions against 131 defendants, and 121 criminal cases against 145 defendants. The top three (3) violations charged were the offer or sale of securities/investment advice by unlicensed parties (394 actions), the offer or sale of unregistered securities (386 actions), and securities fraud (374 actions).[54]

Informed by our members' frontline observations of investor harm, NASAA has long invested resources into trying to strengthen both the SEC's definition of "accredited investor" and the body of private securities disclosures that accredited investors must navigate. At this time, it is our view that none of the accredited investor bills under discussion should become law without Congress first incorporating private securities disclosure requirements into the legislation to strengthen investor protection and provide more information on these companies and this market.

A. The Definition of "Accredited Investor"

To underscore, NASAA fully agrees that the SEC's definition of "accredited investor" requires reform. As a threshold matter, NASAA commends lawmakers for their efforts to expand access to and participation in our securities markets by investors of all ages and

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[52] NASAA has long opposed the Unlocking Capital for Small Businesses Act. *See, e.g.*, NASAA, NASAA Letter to Congress Regarding H.R. 6127, the Unlocking Capital for Small Businesses Act of 2018 (Nov. 19, 2018). For the same reasons, NASAA opposed unsuccessful efforts by the SEC in 2020 to establish a federal broker-dealer exemption for private placement finders. *See* NASAA, NASAA Outlines Opposition to SEC's Proposed Federal Broker-Dealer Exemption for Private Placement Finders (Nov. 13, 2020). *See also* NASAA, NASAA Letter to Committee Leadership Regarding Opportunities to Strengthen Diversity in Our Capital-Markets (Dec. 12, 2022); NASAA, NASAA Letter to Appropriations Committee Leadership Regarding Securities Policy Riders (Dec. 1, 2022); NASAA, NASAA 2022 Enforcement Report Based on an Analysis of 2021 Data (Sep. 2022) at 7 ("In 2021, U.S. members were highly successful in fulfilling their gatekeeper role. They denied 232 applications for licensure (an increase of 76% from 2020), conditioned the approval of 278 applications (an increase of 67% from 2020) and suspended 26 securities professionals (an increase of 13% from 2020). They also revoked licenses of 50 securities professionals and barred 61 individuals from the industry."); and Maryland Securities Division Commissioner Melanie Senter Lubin, Written Testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs Regarding Protecting Investors and Savers: Understanding Scams and Risks in Crypto and Securities Markets (July 28, 2022).

[53] *See generally* NASAA, NASAA Enforcement Report 2024 Edition (Oct. 2024).

[54] *See* NASAA, NASAA Enforcement Report 2024 Edition (Oct. 2024) at 3.

backgrounds. We agree that in many cases wealth measures are an inadequate screening criterion for measuring the type of sophistication necessary to invest in private markets, especially with respect to natural persons who meet the current thresholds simply by accumulating retirement savings over time.

The bills under discussion are as follows:

1. H.R. ___, the Fair Investment Opportunities for Professional Experts Act, would amend the Securities Act to modify the definition of an "accredited investor" to codify the SEC's existing definition, incorporate new requirements to adjust net worth and income standards for inflation, and make it possible to qualify as an accredited investor based on education or job experience. The amended definition under the Fair Investment Opportunities for Professional Experts Act would include (A) an individual whose net worth or joint net worth with their spouse exceeds $1 million (adjusted for inflation), excluding from the calculation of their net worth their primary residence and a mortgage secured by that residence in certain circumstances; (B) an individual whose income over the last two (2) years exceeded $200,000 (adjusted for inflation) or joint spousal income exceeded $300,000 (adjusted for inflation) and who has a reasonable expectation of reaching the same income level in the current year; (C) an individual who is licensed or registered with the appropriate authorities to serve as a broker or investment adviser; and (D) an individual determined by the SEC to have qualifying education or job experience and whose education or job experience is verified by FINRA. The bill also would direct the SEC to revise the definition of "accredited investor" in Regulation D of the Securities Act to conform to the changes set forth in the Fair Investment Opportunities for Professional Experts Act.[55]

2. H.R. ___, the Accredited Investor Definition Review Act, would amend the Securities Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") to codify the SEC's 2020 rulemaking with respect to the decision to permit qualification based on certain certifications, designations, or credentials, and to direct the SEC to review and adjust or modify the list of certifications, designations, and credentials accepted with respect to meeting the requirements of the definition of "accredited investor" within 18 months of the date of the bill's enactment and then not less frequently than once every five (5) years thereafter.[56]

3. H.R. ___, the Equal Opportunity for All Investors Act, would amend the Securities Act to add a new way for individuals to qualify as an accredited investor. Specifically, individuals of any net worth or income level could qualify by passing an examination designed to ensure the individual understands and appreciates the risks of investing in private companies, as well as ensure the individual "with financial sophistication or training would be unlikely to fail." The SEC would have two (2) years from the date the legislation becomes law to establish this examination. A registered national securities

[55] *See* Discussion Draft of H.R. ___, the Fair Investment Opportunities for Professional Experts Act, 119th Congress, 1st Session (Feb. 20, 2025).

[56] *See* Discussion Draft of H.R. ___, the Accredited Investor Definition Review Act, 119th Congress, 1st Session (Feb. 20, 2025).

association such as FINRA could administer the examination.[57]

4. H.R. ___, the Increasing Investor Opportunities Act, would amend the Investment Company Act to prohibit the SEC from placing a limit, as they currently do, on closed-end companies investing in private funds. Specifically, the legislation would prohibit the SEC from restricting the investments of closed-end funds in private funds solely or primarily because of the private funds' status as private funds and restrict exchanges from prohibiting the listing or trading of a closed-end fund's securities solely or primarily by reason of the amount of the company's investment in private funds.[58]

5. H.R. ___, a bill to exclude QIBs and IAIs From the Record Holder Count for Mandatory Registration, would amend Section 12(g) of the Exchange Act to exclude qualified institutional buyers and institutional accredited investors from calculations of holders of record. In addition, the bill would prohibit the SEC from issuing rules to reverse these changes by amending rules to reduce the number of holders of record or modify related calculations.[59]

6. H.R. 145, the Risk Disclosure and Investor Attestation Act, would amend the Securities Act to direct the SEC within one (1) year of enacting the legislation to issue rules that permit individuals to qualify as accredited investors by attesting to the issuer that the individual understands the risks of investment in private issuers, using the form that the SEC adopts by rulemaking, which may not be longer than two (2) pages in length.[60]

7. H.R. ___, the Investment Opportunity Expansion Act, would amend the Securities Act to add additional investment thresholds for an individual to qualify as an accredited investor. The legislation would direct the SEC to treat any individual whose aggregate investment, at the completion of such transaction, in securities with respect to which there has not been a public offering is not more than 10 percent of the greater of (A) the net assets of the individual or (B) the annual income of the individual as an accredited investor.[61]

8. H.R. ___, the Accredited Investors Include Individuals Receiving Advice from Certain Professionals Act, would amend the Securities Act to expand the definition of "accredited investor" to include individuals receiving individualized investment advice or individualized investment recommendations with respect to a private offering from a professional who qualifies as an accredited investor. The legislation would also direct the SEC to issue rules consistent with the legislation, including establishing the form required under the legislation, within one (1) year after enactment.[62]

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[57] *See* Discussion Draft of H.R. ___, the Equal Opportunity for All Investors Act of 2025, 119th Congress, 1st Session (Feb. 20, 2025).

[58] *See* Discussion Draft of H.R. ___, the Increasing Investor Opportunities Act, 119th Congress, 1st Session (Feb. 20, 2025).

[59] *See* Discussion Draft of H.R. ___, a bill to exclude QIBs and IAIs From the Record Holder Count for Mandatory Registration, 119th Congress, 1st Session (Feb. 20, 2025).

[60] *See* H.R. 145, the Risk Disclosure and Investor Attestation Act, 119th Congress, 1st Session (Jan. 2, 2025).

[61] *See* Discussion Draft of H.R. ___, the Investment Opportunity Expansion Act, 119th Congress, 1st Session (Feb. 20, 2025).

[62] *See* Discussion Draft of H.R. ___, the Accredited Investors Include Individuals Receiving Advice from Certain Professionals Act, 119th Congress, 1st Session (Feb. 5, 2025).

9. H.R. ___, a bill to amend the Securities Act to expand the ability of individuals to become accredited investors, and for other purposes, would amend Section 2 of the Securities Act to permit any individual who passes an accredited investor examination described within the legislation to qualify as an accredited investor. This bill would direct the SEC to, not later than the end of the 24-month period beginning on the date of enactment of the legislation, establish and administer an accredited investor examination that tests the understanding of individuals of the aspects of investing in unregistered securities, private companies, or private funds. This bill would amend Section 2(a)(15) of the Securities Act to permit an individual that has, within the past 15-years, passed the Securities Industry Essentials examination offered by FINRA, a successor examination, or any similar examination (as determined by the SEC) offered by another national securities association, to qualify as an accredited investor. This bill would direct the SEC to revise Section 230.501(a) of title 17, Code of Federal Regulations, to exclude retirement assets and retirement income assets in any calculation of a natural person's net worth, joint net worth with that person's spouse or spousal equivalent, income, or joint income with that person's spouse or spousal equivalent for the purposes of qualifying as an accredited investor.[63]

In March 2023, NASAA shared its views regarding changes to the SEC's definition of an "accredited investor" with the Director of the SEC's Division of Corporation Finance. Specifically, we explained that, if the SEC were to amend its definition of an "accredited investor," the SEC should (A) exclude assets accumulated or held in defined contribution plans from inclusion in natural person accredited investor net worth calculations and (B) adjust the income and net worth thresholds to account for inflation since 1982 and index those thresholds going forward. By way of background, around the same time the natural person accredited investor thresholds were established, there was a marked shift in the benefits employers offered to employees. The increased use of defined contribution plans over defined benefit plans now leaves most workers responsible for providing the bulk of their own retirement savings.[64] It should be a priority to guard these assets from exposure to the riskiest offerings in our markets. Like a primary residence, which Congress excluded from accredited investor net worth calculations, retirement assets are not appropriate for speculative private investing. Older investors in particular cannot afford the losses because they lack the time horizon necessary to recover from such losses.[65]

NASAA repeated these views later that year in September. I had the opportunity to testify before the SEC Investor Advisory Committee on possible changes to the SEC's definition of an accredited investor as well as Regulation D, Rule 506 improvements.[66]

B. SEC Regulation D, Form D Improvements

At this time, it is our view that none of the accredited investor bills under discussion should become law without Congress first incorporating private securities disclosure requirements into the

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[63] *See* Discussion Draft of H.R. ___, Accredited Investor Definition Reforms, 119th Congress, 1st Session (Mar. 21, 2025).

[64] *See* Congressional Budget Office, The Role of Defined Benefit and Defined Contribution Plans in the Distribution of Family Wealth (Nov. 18, 2020).

[65] *See* NASAA, NASAA Comment Letter to the SEC Regarding Private Market Reforms (Mar. 7, 2023).

[66] *See* Amanda Senn, Written Statement Before the U.S. Securities and Exchange Commission Investor Advisory Committee "Panel Discussion Regarding Exempt Offerings under Regulation D, Rule 506" (Sept. 21, 2023).

legislation to strengthen investor protection and provide more information on these companies and this market. NASAA fundamentally believes that building markets that are more trustworthy to more people throughout the United States starts with ensuring that additional access to our markets comes with additional transparency. The proposals under discussion are imperfect tools for preventing investor losses, making it important that we improve transparency before expanding access to these opaque markets.

Specifically, NASAA is seeking improvements to the SEC Regulation D, Form D regime. The history of the regime is important to understanding NASAA's requests.

In short, the path toward the primacy of our unregistered Regulation D market in the United States began in roughly the early 1980s. Key developments occurred in 1982, 1996, 2010, and 2020, as briefly outlined below.

In 1982, the SEC decided to exempt Rule 506 offerings from registration with the SEC.[67] At that time, the SEC believed the change would allow sales to a limited number of people. Importantly, these individuals would have bargaining power or financial wherewithal such that they could "fend for themselves" in the absence of the protections inherent in registration requirements that reduce the normal informational asymmetries between buyers and sellers of securities.[68] In general, the new Rule 506 provided that sales of securities to unlimited numbers of accredited investors and up to 35 sophisticated non-accredited investors would not be considered a public offering that requires registration but only if the offeror did not use any form of general solicitation. Accredited investors were defined as natural persons with a net worth in excess of $1 million (either alone or together with a spouse) or an income of $200,000 per year (or married couples with a combined income of $300,000).

In 1996, Congress passed NSMIA and, in so doing, preempted state review and qualification of Rule 506 offerings.[69] Thereafter, companies were allowed to raise unlimited amounts of capital from unlimited numbers of accredited investors with no specific disclosure obligations and no regulatory review at either the federal or state level.

In 2010, pursuant to Section 413(a) of the Dodd-Frank Act, Congress required the SEC to update the definition of "accredited investor" to exclude the value of a person's primary residence for purposes of determining whether the person qualifies as an accredited investor on the basis of having a net worth in excess of $1 million.[70] Neither Congress nor the SEC has since changed the income and net worth thresholds of the SEC's definition. In turn, and given inflation, an exemption that originally allowed unregistered securities to be sold to 1.8 percent of

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[67] *See* SEC Final Rule, Revision of Certain Exemptions from Registration for Transactions Involving Limited Offers and Sales, Rel. No. 33-6389, 47 FED. REG. 51 (Mar. 16, 1982) at 11251.

[68] *See, e.g.*, Consumer Federation of America, Comment Letter Regarding the SEC Concept Release on Harmonization of Securities Offering Exemptions (Oct. 1, 2019) at 9-13. *See also* Craig McCann, Susan Song, Chuan Qin, and Mike Yan, SLCG Economic Consulting, HJ Sims Reg D Offerings: Heads, HJ Sims Wins - Tails, Their Investors Lose, (Last Updated: Dec. 15, 2022). *See also* Craig McCann, Chuan Qin, and Mike Yan, Inactive and Delinquent Reg D Issuers (2022); Regulation D Offerings Summary Statistics (2022) and Craig McCann, Chuan Qin, and Mike Yan, Broker-Sold Regulation D Offerings Summary Statistics (2022).

[69] *See* NSMIA, Pub. L. No. 104-290, 110 Stat. 3416 (Oct. 11, 1996).

[70] *See* Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376 (July 21, 2010) at § 413(a).

U.S. households in the early 1980s now allows those sales to occur to approximately 18.5 percent of U.S. households.[71]

Meanwhile, Congress and the SEC have made changes since 2010 to relax and effectively expand the scope of the exemption for Rule 506 offerings. Of note, the SEC adopted Rule 506(c) in 2013 to satisfy a 2012 JOBS Act mandate.[72] Rule 506(c) provides that a company can broadly solicit and generally advertise an offering and still be deemed in compliance with the exemption of Rule 506 provided the company takes steps to verify that all investors are accredited investors.[73] As explained above, the SEC adopted changes in 2020 to the definitions of an "accredited investor" that allow individuals for the first time to qualify as accredited investors by virtue of their financial sophistication and without regard to their financial wherewithal.[74]

Moreover, Congress and the SEC have made it easier to trade Rule 506 securities.[75] Together, these changes have reduced the need for companies to turn to the public markets to provide a way for founders, early investors, and employees to sell their shares. Also, these changes have allowed unregistered securities to be more widely distributed.

As the above illustrates, the expansion of the private markets has occurred in a piecemeal, incremental fashion during the last four (4) decades without a critical assessment of the cumulative effect these changes have had on our capital markets. Today, the exemption under federal securities laws for Rule 506 offerings no longer meaningfully limits offerings to the type of investor that the Supreme Court, Congress, and the SEC once envisioned as able to "fend for

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[71] *See* SEC, Review of the "Accredited Investor" Definition under the Dodd-Frank Act (Dec. 14, 2023). According to SEC staff, if changes were not made to the accredited investor financial criteria, 30.2 percent of the U.S. households would qualify as accredited investors by 2032, 47.3 percent of the U.S. households would qualify as accredited investors by 2042, and 63.8 percent of the U.S. households would qualify as accredited investors by 2052.

[72] *See* 2012 JOBS Act, Pub. L. No. 112-106, 126 Stat. 306 (Apr. 5, 2012) at § 201.

[73] *See* SEC, Eliminating the Prohibition Against General Solicitation and General Advertising in Rule 506 and Rule 144A Offerings: A Small Entity Compliance Guide (Last Updated: Sept. 20, 2013).

[74] *See* SEC Final Rule, Accredited Investor Definition, Rel. Nos. 33-10824 and 34-89669 (Aug. 26, 2020). *See also* SEC, SEC Harmonizes and Improves "Patchwork" Exempt Offering Framework, Press Release 2020-273 (Last Updated: Jan. 5, 2021) ("When issuers use various private offering exemptions in parallel or in close time proximity, questions can arise as to the need to view the offerings as "integrated" for purposes of analyzing compliance. This need results from the fact that many exemptions have differing limitations and conditions on their use, including whether the general solicitation of investors is permitted. If exempt offerings with different requirements are structured separately but analyzed as one [1] "integrated" offering, it is possible that the integrated offering will fail to meet all the applicable conditions and limitations. The amendments establish a new integration framework that provides a general principle that looks to the particular facts and circumstances of two or more offerings, and focuses the analysis on whether the issuer can establish that each offering either complies with the registration requirements of the Securities Act, or that an exemption from registration is available for the particular offering.")

[75] Originally, the purchaser of a security in an offering under Rule 506 was restricted from reselling the security for a period of two (2) years. In 1997, the SEC amended Rule 144(d) under the Securities Act to reduce the holding period for restricted securities from two (2) years to one (1) year, thereby increasing the attractiveness of Regulation D offerings to investors and to issuers. In 2007, the SEC made additional changes, again to ease the trading of these securities. In 2015, Congress codified an informal exemption that securities practitioners had been using for private resales of securities by non-issuers (such as employees, executive officers, directors, and large shareholders) that were acquired in a private offering. The new Section 4(a)(7) exemption under the Securities Act permitted private resales of restricted securities to accredited investors where no general solicitation is used and certain information concerning the issuer and the transaction is provided to the purchaser of the security.

themselves." Also, the regulatory requirements for these so-called "non-public offerings" often do not reflect the size, economic importance, or disparate ownership of the company issuing the securities.

As a result of the Dodd-Frank Act, the United States now has better systems in place for identifying and monitoring potential threats to the stability of our financial markets. Nevertheless, we respectfully submit that these systems may not be working effectively enough with respect to the growth and now dominance of the private securities and funds markets. While certain officials at the SEC are concerned by this issue, and the Office of Financial Research at the Treasury Department is monitoring it as best it can without sufficient data, it may well be the case that policymakers are not taking the threat seriously enough.

C. The Need to Improve SEC Form D Processes and Filings

As a general matter, the overall quality of certain key aspects of our markets has declined in recent decades. First, the overall quality of disclosure in our markets is worse than it was decades ago. This is in large part because of the deregulation of Rule 506 offerings and the policy decision to allow companies to raise an unlimited amount of money under this exemption. Second, as a general matter, corporate governance and internal controls in our early-stage markets are weaker than in decades past. Last, the overall quality of market regulation and policymaking – from rulemaking to examination to enforcement to investor education to federal legislation – suffers when legislators, regulators, and other key stakeholders lack a clear line of sight into our securities markets.[76]

Today, few disclosures are required or made voluntarily under Rule 506 of SEC Regulation D. Generally, private companies raising capital under Rule 506 do not have to make their offering disclosures accessible to the SEC or state securities regulators. Instead, they can submit an 8-page form notice known as a Form D notice to the SEC and the applicable states where securities have been sold without registration under the Securities Act in an offering based on a claim of a qualifying exemption. The notice is published in EDGAR and includes basic information regarding the securities issuer, the offering, the investors, and related fees. Of note, Form D itself includes a disclaimer designed to make clear to investors that the information in the notice may contain inaccurate or incomplete information. In addition to the weaknesses of the required Rule 506 disclosures, voluntary disclosures made in Rule 506 offerings about business plans and projections often are tainted with inaccuracies or overly optimistic assessments.

Importantly, the decline in the overall quality of our disclosures has consequences for businesses and regulators tasked with managing the stability of our financial markets. By way of example, the limited regulatory oversight of Rule 506 disclosures, coupled with what is often inaccurate and incomplete information in the disclosures, can and often does lead to the mispricing of the securities and inflated valuations. This occurs notwithstanding the presumed ability of the investors to "fend for themselves" in these transactions. The extent of mispricing can cause widespread harm to investors and non-investors alike when the bubbles finally burst. An illustrative example of such events is the recent mispricing and ultimate collapse of FTX

[76] *See* Craig McCann, Chuan Qin, and Mike Yan, Regulation D Offerings: Issuers, Investors, and Intermediaries (Sept. 2023) ("Securities relying on Reg D exemptions (Reg D securities) are more opaque, less liquid, charge higher fees, and have a greater potential for losses due to issuer failure and fraud compared with registered securities.").

Trading Ltd. and its affiliates.[77]

Similarly, the overall qualities of corporate governance and internal controls in our early-stage markets are weaker than in decades past. Founder-friendly terms that are common in private offerings can and often do lead to a culture of weak corporate governance and internal controls at these companies, making fraud or other misconduct more likely. In addition, the overall reduction in disclosure in our markets makes it more difficult even for diligent public companies to prepare accurate financial statements and financial risk disclosures. By way of example, issuers that rely on private and public companies for supplies may have trouble assessing their own risks if they cannot access timely, accurate information about the financial health and risks of their commercial partners.

Last, the overall quality of market regulation and policymaking – from rulemaking to examination to enforcement to investor education to federal legislation – suffers when legislators, regulators, and other key stakeholders lack a clear line of sight into our securities markets. In a 2021 speech, a former SEC commissioner commented on this problem. She stated, "The increasing inflows into these [private] markets have also significantly increased the overall portion of our equities markets and our economy that is non-transparent to investors, markets, policymakers, and the public.... [I]nvestors, policymakers, and the public know relatively little about them compared to their public counterparts.... And here we are again watching a growing portion of the US economy go dark, a dynamic the Commission has fostered – both by action and inaction."[47]

D. NASAA's Requests

To address such problems, Congress should direct the SEC to require issuers under Regulation D to submit Form D pre-issuance and post-closing sales reports to the SEC. Advance Form Ds along the lines of the SEC's 2013 Advance Form D proposal would empower state and federal securities regulators to make smarter decisions when they see advertised offerings. Absent Advance Form Ds, investors and regulators who see an advertised offering have no easy way of knowing whether the issuer is engaged in a compliant offering or a scam. Separately but relatedly, requiring a closing filing would provide more complete information of the total amounts of capital raised in Regulation D offerings and the methods used to verify accredited investor status. This would provide regulators and investors more complete information about exempt offerings and a more accurate assessment of the overall size and quality of private markets. Any legislation should result in a loss of the exemption if the issuer does not comply with the submission requirements.

NASAA has prepared draft Form D legislation. We have shared it with congressional offices. We are aware of some interest in pursuing the legislation.

VI. Congress Should Continue to Support the State-Federal Partnerships

As emphasized throughout my testimony, I firmly believe that Congress should continue to empower state governments to have broader authority and resources for investor and issuer education and outreach, as well as for enforcement. Empowering state governments is not only a win for businesses and investors but also taxpayers who benefit from a more efficient use of their

[77] *See* NASAA, NASAA Letter to Committee Leadership Regarding Lessons from the FTX Bankruptcy (Nov. 30, 2022).

tax dollars.

Though markets are largely digital now, the fact remains that securities and investment advice continue to be sold to investors on Main Street. It is critical to have regulators with boots on the ground to perform the investor protection work vital for both businesses and investors. We, as state securities regulators, have a unique advantage relative to our federal counterparts for education and outreach, specifically the fact that we have physical offices in all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. Investing in the states as hubs for investor and issuer education and outreach would help all of us achieve this shared vision of empowering all Americans, particularly those in hard-to-reach areas of the country.

Similarly, it remains critical to have regulators who are part of the communities they serve. We, as state securities regulators, talk to constituents regularly and learn about new threats to businesses and investors simply by being members of the communities we serve. In combatting fraud, time is of the essence. To give regulators the best chance of recovering victims' losses, we must empower state governments to serve as early detectors of threats and give them the enforcement authority and tools necessary to prevent or mitigate the harm.

NASAA continues to monitor developments at the federal level. No single regulator has all the resources it needs, but we will continue our long history of working collaboratively amongst ourselves and with our federal partners to carry out our work to protect investors and build trust in the capital markets.

VII. Conclusion

Thank you again for the opportunity to testify. I hope I have provided a helpful overview of the state role in capital formation and the ways they help protect the investing public.

Chairman HILL. Thank you very much, Director. We will turn to member questions, and I will yield to myself 5 minutes for starting that process.

Ms. Matthews Brackeen, from your experience, I really enjoyed your testimony about small, first-time fund managers. I know that firsthand, and I know how the consulting system is biased against first-time managers going to institutional investors, so I really appreciate your testimony. I think that is informative to the committee. You talked about your priority on regional diversity as well, and you talked about two principal reforms you thought that would be helpful for smaller funds: the fund of funds approach and the limitations there and then the limitation on total number of investors. Would you just reiterate that point and compare it to the work you are doing?

Ms. MATTHEWS BRACKEEN. Yes, absolutely. The minimum viable fund size is really around $50 million, right, and so in order to kind of get to that number, you have to bring in a group of investors that can write a certain size check. The bigger the check, the easier it is to kind of chunk that down. For a fund of funds, it is a much bigger fund, so for us, we are raising a $2 billion fund. Even if we are raising a $1 billion or $500 million, it is a pretty significant check size that you need in order to kind of close the fund.

For us, what we are asking here as we are talking about the DEAL Act, in particular, is to kind of shrink that number down. If we are raising, like I just said, $2 billion, we need people to write $8 million checks or lots of people who can write $100 million or $200 million checks. I would bet almost every person in this room who has fundraised knows exactly who those people are in this country. It is a very small number of people. What we are looking to do is to give more people that opportunity.

Beyond that, I know we kind of both talked about kind of the number of investors, but I also kind of mentioned pension funds and public investment funds. Right now, our universities, our teachers' unions, they are sending their dollars to the coasts, and each time they do that, they are building wealth on the coasts, and that money stays there long term. Now, does some of the money come back with returns? It absolutely does, but those fund managers make money. The families then grow there in those individual cities. We find angel investors growing there and then spending more money on companies there. We are also seeing those tech companies grow and thrive, and it is not coming back to the center of the country.

Chairman HILL. Thank you very much for your views on this important set of measures. Mr. Case, she makes the case that you have been talking about in terms of the bias toward the Rise of the Rest, of the halo effect, the gravitational pull back to the coast, despite your best efforts on mentorship, availability of directors, coaching, and funding from the work you have done over the past 2 decades. What are we missing? What incentive system do you think that we should change?

Mr. CASE. As I said in my testimony, it is a mix of things, but some of it is creating a sense in these communities and all the country that they really have an opportunity to participate in the innovation economy. A lot of people, as you well know, in places

like Arkansas and others, feel like they need to leave. They go to Silicon Valley or some other place. One great story I mentioned in my written testimony is an entrepreneur who was actually at a hedge fund in San Francisco when he came up with an idea for a platform called AcreTrader, and he moved back to Arkansas, to Fayetteville, to start that company. He left Arkansas to go to the coast because he did not feel like he could kind of find his way if he stayed. He was an exception that came back to start the company there.

How do we create more of those where fewer people are leaving? There is less of what some have called a brain drain of people leaving different cities in all the country to go to the coast, and how do you create a boomerang of people returning? It requires time. It does not happen overnight. But having venture capital in those communities to back the next generation of companies, having some of those companies graduate to be successful enough to go public and create wealth for all the investors, but also the employees, some of whom then want to start other companies, some of whom then will become angel investors in other companies. It creates this ecosystem and sort of a positive cycle. That is what we are trying to do. I think we have made some progress in some of these cities, but I do think we need to continue to build on it. The 37 different bills that have been proposed by this committee are—I have read through some of them—I think are steps in the right direction.

Chairman HILL. Thank you. I have certainly seen that with the work of Startup Junkie and the small business incubators. The Kauffman Foundation's work has been dramatic, both in Fayetteville and in Little Rock, in creating an angel investor cohort and a startup environment. Mr. Newell, I want to conclude by just asking you to submit for the record your views on the lack of participation in the Reg A proposals from the work you did in JOBS Act and more bias toward Reg D. I mean—I am sorry—Mr. Trotter, but I am going to yield back and call on the ranking member for her 5 minutes of questions.

Ms. WATERS. Thank you very much, Mr. Chairman. Mr. Case, I appreciate your leadership with the Rise of the Rest and your work during the JOBS Act. Through your investments across the country, you have been seeing firsthand what works for small businesses in underserved communities. Democrats on this committee have consistently delivered results for small businesses. During the pandemic, I worked with Ranking Member Velázquez to secure $60 billion in Paycheck Protection Program—that is, the PPP program—loans specifically for community financial institutions to reach small businesses left behind by big banks.

We also worked with Republicans during Trump's first term to secure a historic $12 billion for community development financial institutions and minority depository institutions in 2020, which is projected to support more than $130 billion in new financing for underserved communities over the next decade. Additionally, committee Democrats worked with the Biden Administration to renew the State Small Business Credit Initiative, which is already providing billions of dollars in new capital access for small businesses. As I said today and at the prior hearing, I look forward to working

with Chairman Hill to advance sensible reforms that support small businesses and our public markets while keeping investors and consumers top of mind.

Nevertheless, Mr. Case, no doubt you have seen reporting that the Trump-Musk Administration is trying to shut down the Community Development Financial Institution Fund and the Minority Business Development Agency. Based on your extensive work with entrepreneurs and overlooked communities, what specific economic damage would occur if the current administration eliminates these and other small business support programs through your Rise of the Rest bus tour? I understand you have traveled 11,000 miles across the country. Which regions and demographics would be most severely impacted if these critical capital sources disappeared? You know what the CDFI Fund is.

Mr. CASE. Thank you, Ranking Member Waters, for your leadership on these issues over, obviously, a long period of time. We have, with Rise of the Rest, traveled quite extensively around the country, and we have ended up making investments now in over 200 companies in over a hundred different cities, so it is fairly broad. I think it is 38 States, so we have seen a lot. We have impacted a lot of entrepreneurs, which is a reminder that there are great entrepreneurs building great companies everywhere. It just takes a little more effort to identify them and back them and mentor them and support them.

In terms of your specific question, I am on the side of more capital going to more entrepreneurs in more places, and programs like CDFI and others, I think, are helpful in that regard. I have not seen the specific proposals to modify that or change that but in general, at this juncture, I think we need to be kind of reaching out, trying to level the playing field in as many ways as we can.

Ms. WATERS. Okay. If you do not really know what is going with CDFI, if you find out that it is going to be eliminated, would you support CDFI?

Mr. CASE. I do support CDFI.

Ms. WATERS. Thank you very much. On to Mr. Trotter. Elon Musk is currently being sued by the Securities and Exchange Commission for allegedly swindling Twitter's investors of over $150 million and previously was penalized for $40 million for misleading Tesla investors. Now through Department of Government Efficiency (DOGE), he potentially has access to the SEC's confidential information and have already demonstrated their utter disregard for data privacy, including gaining access to the data of Musk's competitors at the Consumer Financial Protection Bureau. Also it is alarming that Mr. Musk cannot even secure his own website, which has been hacked. The SEC possesses nonpublic information about pending IPOs, mergers, whistleblower complaints, and ongoing enforcement actions, including against Musk-owned companies and competitors.

You have long advised public and private companies that engage in capital-raising activities. Could you discuss the sensitivity of the information shared with SEC, and what would happen if that information were to fall into the hands of competitors or leak prematurely into the markets, and could, for example, there be a con-

flict of interest with someone accessing the internal deliberations of the SEC if that person also is pending litigation? Mr. Trotter.

Mr. TROTTER. The SEC has, in recent years, been very focused on its own cybersecurity. One way in which I have seen as a practitioner, their approach has changed on confidential information that comes into the SEC, the confidential treatment request process during SEC registration. The SEC has worked to make that self-executing so that information does not go to the SEC unless and until they request it. That is one example that comes to mind when you raise this issue of cybersecurity at the Agency.

Chairman HILL. Thank you, sir. Now we call on the gentleman from Michigan, the vice chair of the full committee, Mr. Huizenga, who is the sponsor of the Accredited Investor Definition Review Act and Improving Disclosures for Investors Act. Mr. Huizenga, you are recognized for 5 minutes.

Mr. HUIZENGA. Thank you, Mr. Chairman, and I want to echo on a sentiment that I have heard from many already about that Congress should further expand the accredited investor definition to include a wider range of potential investors. According to the SEC, 19 percent of U.S. households qualify as under the definition of an accredited investor in 2022—19 percent. That is locking out 81 percent of our population from ever having the opportunity to invest in those small businesses.

This was brought really to the forefront that we had a witness at the last Congress. Her name was Omi Bell, and if I recall, she was here from D.C., who founded an organization that assists African-American female founders in securing funding to develop and grow their businesses. Ms. Bell spoke about the challenges she faced as a young entrepreneur receiving her first investment from her mother, who was not an accredited investor, and how updating that accredited investor definition would actually expand the opportunities for those businesses who are trying to raise capital.

I see Ms. Matthews Brackeen nodding her head quite a bit. I am going to go to you first then. How would expanding this accredited investor definition to include criteria besides wealth and income, how would that expand opportunities for both prospective investors and for those entrepreneurs, especially in those underrepresented communities?

Ms. MATTHEWS BRACKEEN. Yes, absolutely. Right now anyone over 18 can sports bet. They can go and play the lottery. They can go on to lots of apps and buy cryptocurrency with very little education. What they cannot do is go and invest in companies that have years and years of documentation and financials because they have been blocked out by rules and regulations against them. What would that change? It would bring in new investors, new angel investors because right now you have to have such an incredible amount of net worth. There are lots of people that work for my team that are not able to be investors. They are not accredited investors, but they know much more than the general American public.

Mr. HUIZENGA. What you will hear from critics of expanding this is that, well, see, there is not going to be any sort of safety net. There is not going to be any sort of review. These people are just going to be caveat emptor. They are going to get hosed. We know

it is going to be there, and it is only the Federal Government's definition of who should not be investing that is saving them from themselves. Do you buy that?

Ms. MATTHEWS BRACKEEN. I think that we could probably set a rule around the percentage of money that you are using every year. I think that could be fairly simple. That is something we could do for all of those things that I mentioned in the past.

Mr. HUIZENGA. Some reasonable things that are——

Ms. MATTHEWS BRACKEEN. Very reasonable.

Mr. HUIZENGA. The assumption that bothers me, Mr. Chairman, is that if we were to change this Federal definition of what an accredited investor is, that means there is no definition or no guardrails to any of this investing, which simply is not the case. Actually, Mr. Case and Newell, if you could really super quickly answer this. I am curious how the current investor definition, as Ms. Matthews Brackeen was talking about, how that really limits private capital for entrepreneurs, and what does that mean for the economy and society.

Mr. CASE. There are a lot of people who have ideas in terms of starting companies. Many do not have the commitment to follow through.

Mr. HUIZENGA. It is hard.

Mr. CASE. It is definitely very hard and definitely risky, and you put your career often at risk, but there are many who I have found who do have the desire to go farther but do not have access to the capital to get going. They do not have the money themselves. They do not necessarily have in their network friends and family who can write the checks, which is why it is so important to open it up. Yes, we need to protect people, but we also need to enable people who have ideas and want to pursue the American Dream, start a company, to have a path to do that. Investors have a path to also invest, so it is not just essentially because of the current income rules, other rules related to credit investors. It is kind of the rich getting richer. How do we kind of level the playing field for investors as well?

Mr. HUIZENGA. That is a problem, the rich getting richer on this. Sorry, I have 22 seconds left, and I have to move on to Mr. Trotter very quickly. Current law, issuers using Rule 506(c) are permitted to engage in general solicitation before filing a Form D, as long as they verify that all purchasers are accredited. If the SEC were to mandate advanced Form D filings before any general solicitation, how does that affect materially delaying capital raises and deter issuers like AngelList, Carta, others, from using that Rule 506(c)?

Mr. TROTTER. Given the amount of time to comment, I will just say, it is not a good idea. I would not support it.

Mr. HUIZENGA. Okay. Maybe we can expand that in writing.

Mr. TROTTER. I appreciate it.

Mr. HUIZENGA. With that, Mr. Chairman, I yield back.

Chairman HILL. The gentleman yields back. The chair recognizes the gentlewoman from New York, the Ranking Member of the Small Business Committee, Ms. Velázquez, for 5 minutes.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman. Ms. Matthews, I would like to remind you and everyone in this room that the funds to funds dynamic you are speaking so highly of was a proposal pro-

posed and finalized by the SBA under the Biden Administration, and I am very proud to support it. I am the Ranking Member of the House Small Business Committee as the chairman referred to, and I am here to tell you that expanding our private markets and engaging in private market offerings is not the only way for small businesses to acquire equity capital. The SBA's SBIC program, as of 2024, have deployed more than $130 billion of capital to more than 194,000 small businesses. The CDFI Venture Capital Fund also responsively invests equity capital to underserved and undercapitalized small businesses, yet the Trump Administration's executive order does exactly the opposite. We need to be discussing ways to strengthen, not destroy, these type of programs.

Ms. Senn, the title of today's hearing is, "Beyond Silicon Valley: Expanding Access to Capital Across America." While the title is certainly correct, the actions by the Trump Administration and congressional Republicans tell a different story. President Trump recently issued an executive order that aims to curtail the non-statutory work of the CDFI program. If we are going to broaden the reach of capital beyond Silicon Valley, is not this exactly the type of public-private program we should be promoting?

Ms. SENN. Thank you for the question. I am glad you guys included Alabama beyond Silicon Valley. You cannot get much further. While our office does not directly administer CDFI programs, I did reach out both locally and nationally to my colleagues in banking and credit unions, and they discussed at length the impact that those programs have had on their communities. As a matter of fact, in Alabama alone, there are 10 CDFI credit unions—were fairly rural—40 percent, that serve over 300,000 members, supporting $2.9 billion in loans and $3.7 billion in deposits. They have extended nearly $18 million in total financial benefits to the underserved communities in Alabama. Our credit union friends are here, too, and they can provide further information to me if they would like.

Ms. VVELÁZQUEZ. Thank you very much. Ms. Senn, the U.S. capital markets have seen tremendous growth over the past decade, with a disproportionate share of the growth seen in private markets. Some of us are concerned that large private companies and private funds have misused securities exemptions to effectively stay private indefinitely, avoiding the transparency and accountability obligations to which many similarly situated public counterparts must adhere. Is this a concern you share?

Ms. SENN. It is a concern in every industry that some bad actor is going to exploit some opportunity to defraud somebody. In Alabama, we have a law enforcement agency, and I am mindful of the fact that I am here for all 50 States, and I talk to my colleagues at least twice a week. We do see fraudsters exploiting the Form D and the regulatory offerings, the forms that are provided to investors, and they use those to create an appearance of legitimacy at times. We want to preserve the integrity of those exemptions while also deterring fraud. On the State level, we see so much, and we see the people that are engaged in the transactions within our borders, and it is so critically important because we are able to help prevent some of that, and those bad actors that are misusing those

forms to defraud our main street and retail investors, we are in a position to be able to put a stop or at least deter that conduct.

Ms. VELÁZQUEZ. Thank you. In your opinion, how do we appropriately balance the need for small businesses to have a less expensive method for raising equity capital through a private offering with the transparency needs of investor? Do you feel these balances are currently tailored appropriately?

Ms. SENN. We are always going to advocate for more investor protections. Exemptions are a privilege, and these businesses that are able to take advantage of it, it is because we believe that those mechanisms are trusted or there is some oversight generally by another agency, for example, a banking authority. On a local level, though, many of these opportunities are, at least on the Form D for the States side, in favor of the businesses. Just in Alabama, as a reference, and I know my colleagues in other States, we offer programs to help small businesses get started.

With our guidance on a State level, and we connect each other, we have a huge network of resources in Alabama, but we are able to help them to build a foundation that enables them to be successful as they do continue to grow. Many of our communities, we are beyond Silicon Valley, but we have so many people that are excited about investing within their communities, and so we help at the Securities Commission to facilitate those resources and get them on a good level ground.

Chairman HILL. Thank you.

Ms. VELÁZQUEZ. Thank you. I yield back.

Chairman HILL. The gentlewoman yields back. I like that, you all, and I like the Alabama accent. I can understand it. Mr. Sessions from Texas, you are recognized for 5 minutes.

Mr. SESSIONS. Chairman, thank you very much. Chairman Case and Ms. Matthews Brackeen, I am going to primarily ask your opinion in just a few minutes. The entire panel here are champions of capitalism, and this committee appreciates and respect not only the words that you bring to us, but really the ideas about us getting stronger. I note, Chairman Case, in your conversation with the committee and your testimony, you talk about a Texas company, Anduril, that added 4,000 jobs because you got in and became an investor and helped them. I also note that in your testimony, Chairman Case, you talk about 75 percent of venture capital flowed to three States—California, Massachusetts, and New York—with 47 States left to share the remaining 25 percent, and your data is up to last year, 2024, which means that it would be current.

I want to ask your opinion about the things that we have been attempting to do to meet the challenge in Texas. We know that we have enormous growth and opportunity, that we have to meet the challenge in Texas, not only from the promise of these companies, whether it be large data centers, chip manufacturers that probably already have the funding or sources that they need, but maybe the hundreds of small companies that might be suppliers and add to that robust development.

Our Governor, Greg Abbott, has convened two champions of capitalism and influence in the State of Texas—Ross Perot, Jr., and Harlan Crow, both of Dallas, Texas—and they have started a strategic Texas fund. It has the balance of the support of government

through the Governor of the State of Texas, and then the entrepreneur leaders. We have always heard if business leaders lead, others can follow. Can both of you take in the 2 minutes and 40 seconds left and give us perhaps a 1-minute analysis about things that you have learned about doing this that may help them be successful, things that might be important for me as a member, and give us your viewpoint about Texas trying to break into that outside of the 25 percent with 47 other States? Chairman Case?

Mr. CASE. Sure. First of all, thank you for the question and the insights around what is happening in Texas. We have now done a number of things, investing in a number of different cities in Texas, and there is a lot of momentum, but there is still a lot of work to do. I think the last number I recall seeing is the State of Texas, which, as you know, is a pretty big State with pretty big cities, was getting somewhere between 2 percent and 3 percent of venture capital. California was getting over 50 percent. The reason for that is because you create this positive cycle I talked about earlier. People want to be there, so people move there. The investment then backs companies there. The success of those companies then ripples through the economy there. I saw this even in Northern Virginia. AOL started in Tysons Corner, Virginia, and we went public in 1992. That created kind of wealth in the community. You saw the benefits of that backing other startups in the corridor toward Dulles Airport.

Momentum begets momentum, and the leadership of people in the community, successful entrepreneurs, successful business leaders, is very important. Actually, when we were there with our Rise of the Rest bus in Texas, Harlan Crow hosted us for an event, and we have also spent time with Ross Perot, Jr., people like that stepping up to say we need to do more to support entrepreneurs in our communities. We do not want them to leave, to go someplace else. We want them to stay, and if they did leave, we want them to come back, and we want to create a sense of possibility in our communities so people really do believe they can start and scale a significant company here.

Mr. SESSIONS. Thank you. Ms. Matthews Brackeen?

Ms. MATTHEWS BRACKEEN. Yes. In the State of Ohio, we have done the same thing, public-private partnerships to help our venture capital industry grow. First, through Ohio Third Frontier, that helped to seed multiple funds around the State, part of it being seeded by State Small Business Credit Initiative (SSBCI) more than 10 years ago. We have also launched a new fund, the Ohio Fund, which is kind of just what you are talking about in Texas, primarily focused in our State, bringing together lots of our larger research and development organizations around the State and seeding lots of new funds and new innovations. We also have an Ohio Growth Fund that is funded by JobsOhio. That comes from a bond issue as well as dollars that come in from Ohio Liquor and beyond. That is a way for our State to kind of create new jobs, bring in new revenue, and attract new dollars into the State and really spur growth.

Mr. SESSIONS. Thank you very much. Mr. Chairman, it is my hope that every member of this committee will listen and learn that economic growth and development is good for their people

back home, that capitalism works, and we are at a time now that can be a golden age for America. Mr. Chairman, I yield back my time.

Chairman HILL. Thank you, Mr. Sessions. The chair recognizes the gentleman from California, the Ranking Member of the Capital Markets Subcommittee, Mr. Sherman, for 5 minutes.

Mr. SHERMAN. Ms. Matthews Brackeen, I think you are right that The Federal Deposit Insurance Corporation (FDIC) insurance limit ought to be higher, at least for checking accounts that are used for operations by small business. Mr. Trotter, you tell us that we can rely on these antifraud provisions, but we are offering $50,000 buyout for every SEC employee that enforces those provisions. Then we are closing all the regional offices, including the one in Los Angeles, that enforces those provisions. We cannot relax the rules in reliance on the basic antifraud provisions if we will not enforce the antifraud provisions. Crime in the suites will grow if we follow the rule of DOGE and defund the police.

Mr. Huizenga, you are right, the accredited investor definition is crazy. It is based on the idea, several ideas, each of which are stupid. One is that a couple with $300,000 is rich, $300,000 income, and second, that rich people should be the ones that are accredited. We should, as Ms. Matthews Brackeen points out, look at the percentage of the assets that the person is investing in that investment and perhaps in all private offerings combined. I think, Mr. Huizenga, there are a number of bills that look at what knowledge the investor has, and we ought to look at the truly independent advisors available to the investor.

Another definition that we have that makes no sense is that we say that you become a public company when you have 2,000 holders of record, okay? Two thousand investors, that is a public company, but in counting to 2,000, we count all Merrill Lynch customers as one. I am a Merrill Lynch customer. They got hundreds of thousands of people. I have not met them. They are not part of my family. We have this weird math where 2,000 can mean 200,000.

One of our witnesses says that when you make an accredited investment, you have years and years of financial information, sometimes, but not necessarily. Look, I have been on the business side of this, helping companies raise capital. Last century, I realized every investor protection is experienced by the business people involved as a hassle and a barrier, but if we do not have investor protections, we will not have vibrant capital markets. If capitalism worked best without investor protections, then Uzbekistan, with no capital investor protections, would be doing better than Wall Street. I want to thank Chairman Hill for including in the list of bills that we are dealing with today the Access to Small Business Investor Capital Act. I introduced this bill in the 116th, 117th, 118th, and now the 119th Congress. I believe the 4th time is the charm. I am honored to be joined by Mr. Huizenga, Mr. Garbarino and Ms. Bynum in that effort.

Mr. Trotter, why is it important that we have vibrant Business Development Companies (BDCs) and that we not have this peculiar provision in calculating their expenses that keeps them out of the indexes?

Mr. TROTTER. My area of focus is really on corporation finance and the part of the SEC that registers IPOs. I do not really have much to say about that question. If I may, I would say on your enforcement question, the private securities litigation is very active.

Mr. SHERMAN. I recognize that, but an awful lot of times the person you are suing is bankrupt, but certainly by the time you get the private securities regulation. Mr. Trotter, what do we do so that we have public and private capital markets at every stage? Is private capital part of that effort?

Mr. TROTTER. I would say, absolutely, yes, private capital is certainly a part of that effort. I think Regulation D is an important part of that regulation environment. One other thing is, on your issue of a major broker-dealer, accounting is one holder of record. That really only happens once a company has already gone public, and that method of accounting usually does not come into play.

Mr. SHERMAN. I would disagree with you and look forward to talking to you about it.

Mr. TROTTER. Sure.

Chairman HILL. The gentleman yields back. The gentleman from Oklahoma, the Chairman of the Task Force on Monetary Policy, Mr. Lucas, is recognized for 5 minutes, and he is also the sponsor of H.R. 1013, the Retirement Fairness for Charity and Educational Institutions Act.

Mr. LUCAS. Thank you, Mr. Chairman, and thank you to our witnesses today. I, too, want to express my appreciation to the chairman for attaching that very bill, the Fairness Retirement for Charities and Educational Institutions Act to this hearing. My bill would allow teachers, charity workers, and other nonprofit employees participating in 403(b) retirement plans access to the same investments available to workers with 401(k) plans or 457(b) plans. This bipartisan bill provides fairness investment opportunities for non-profit employees, so I am glad to see that noticed today.

Shifting my focus, I would like to discuss the disturbing trend we have seen in recent decades of fewer and fewer companies entering public markets. When I came to Congress, there were over 8,000 public company listings in the United States. Today, there are fewer than 4,000. Healthy public markets allow companies to receive lower cost funding while giving investors opportunities to deploy their capital and seek a return. We should make sure our companies have the option to go and stay public without burdensome prohibitive regulations. Mr. Trotter, can you talk about the regulatory barriers that companies face when looking to raise capital through public markets?

Mr. TROTTER. They are extensive. Again, I think one of the big problems in this area is that if you think of how total market capitalization is distributed, you have only half of U.S. market cap represented by about 50 companies. If you extend it to the largest 500, that is the vast majority of market capitalization, and you have regulations that are designed to apply to all public companies as if they are each the same size. They are simply not, so the great thing about the JOBS Act and the Emerging Growth Company definition was to provide that kind of onramp relief, which should be extended.

Mr. LUCAS. Thank you. All of those barriers that you mentioned are particularly challenging for businesses who do not have access to all this capital early on, or for those with high input costs, like agriculture (AG) and energy, in my home State. This is also a challenge in our private markets. If you cannot raise Series A capital, it is difficult to secure Series B or C or D funding. Private markets have experienced sustained growth for the past decade, but that growth is concentrated in places like California and New York. Ms. Matthews Brackeen, why is it important that private markets are accessed in geographically diverse areas? Why do we all need to be able to tap these resources?

Ms. MATTHEWS BRACKEEN. Yes, I am actually going to answer that by also saying 44 percent of our kind of U.S. economy is generated by small businesses, right? So these tech companies are those companies. If we are concentrating all of the capital in three major cities, as Mr. Case said, then we cannot grow businesses. Not all businesses are started in a garage. Some of them are started in laboratories. One of those was an antihistamine at the University of Cincinnati, and they made Benadryl. Those things are made other places, and we have to have the capital to put into those firms.

Mr. LUCAS. Mr. Case, would you like to comment on that as well? Why is it important that companies across a broad array of diverse experiences and industries have access to funding, not just those with Ivy League founders?

Mr. CASE. For a couple reasons, one is, as we have all been discussing and you all know, these new companies, these startups are the big job creators, the big economic drivers, so we have that only happening in a few places. We do not have a diverse innovation economy. We have a lot of communities that feel like they are being left behind. We have a lot of communities where they are seeing job loss due to disruption without getting any of the job gains that can also come from new companies, so that is a key part of it.

Another key part of it, though, is entrepreneurs fundamentally see a problem and decide to do something about it, create a company to do something about it. The problems you see in rural America are different than the problems you see in New York City, for example. In the area of agriculture technology, ag tech, you are likely to find an entrepreneur with an insight into the future of farming in Nebraska more than you are in Silicon Valley, and so we need to make sure we get all of those ideas on the table. We have more shots and goal, if you will, as a country, and that requires getting more people from more places into the innovation economy.

Mr. LUCAS. Clearly, we need to modernize our security laws with incremental reforms to make capital formation through public and private markets so it is attractive to business of all types, all sizes, all locations. Thank you for this very important hearing today, Mr. Chairman. I yield back.

Chairman HILL. The gentleman yields back. The gentleman from Massachusetts, the Ranking Member of the Digital Assets, Financial Technology, and Artificial Intelligence Subcommittee, Mr. Lynch, recognized for 5 minutes.

Mr. LYNCH. Thank you, Mr. Chairman and the Ranking Member, and thank you to our witnesses for your willingness to help this committee with its work.

When I talk to most business leaders today in the current environment, I find that the greatest obstacle that they talk about to capital formation and launching new development is actually President Donald Trump and his $1.4 trillion in chaotic on-again, off-again tariffs on steel, on aluminum, on lumber. As a former construction manager, it makes it very, very difficult for banks and finance companies to quantify risk on a loan when you have this threat out there of 25 percent to 50 percent tariffs on some of these basic building products. It creates a lot of uncertainty, which is problematic in lending. Mr. Case, do you agree this uncertainty is a problem?

Mr. CASE. Yes. I think business looks for clarity, and uncertainty and when there is confusion, they are less likely to invest.

Mr. LYNCH. Thank you. That is all I need. All right. Yes, there you go. Thank you. I appreciate that. As far as private versus public markets, I have some data here from Citizens Bank. Since 2001, the number of private equity-backed companies grew from 2,000 U.S. companies to 11,500 companies, and that is a 400-percent increase. On the other hand, at the same time, the number of publicly listed companies declined sharply from 7,000 to only 4,500.

Director Senn, while 9 out of 10 new ventures fail, I mean, two-thirds of new private equity investments come from pension funds, 30 percent are hedge funds investors, and 23 percent of venture capital investors are pension funds. This means that a substantial portion of pension funds, retirement savings of teachers, firefighters, police officers, nurses, government employees, construction workers, and other main street middle-class folks are invested in private funds. I understand the mix that pension fund managers are seeking, and I understand they are searching for yield. Why is it important that we maintain adequate regulatory requirements to keep investors safe, and could lowering requirements, like changing the accredited investor definition, endanger pension funds and other investors?

Ms. SENN. Based on the information you provided from Citizens Bank, it sounds like our private markers are doing exceptionally well with the funding that they have now.

Mr. LYNCH. Right.

Ms. SENN. The States do support modifications, some reforms to the accredited investor definition, but what we are asking for is also more transparent disclosures on these private offerings. The public markets are out there for the entire world to see, all of their financial records, and people are able to scrutinize them across the globe. With the private markets, it is important for all investors. I know some of these are high-risk businesses that are given access to retail, not just retail given access to the high-risk businesses. Many of them are startups, nascent stage, but having those disclosures on the other side as well are critically important to allowing these people to invest and mitigate the risk.

Mr. LYNCH. So that shift of investment, the flow of investment to private equity, there is a lack of transparency on that side when compared to public companies. Is that right?

Ms. SENN. It is a more opaque market than the public market, certainly because all of the filings are out there for the world to see. On the private side, what we see, and I emphasize again the States' roles in all of this, especially the smaller businesses and smaller offerings, when you have somebody within the State, within those local markets helping review documents with these companies that are getting off the ground. This information, financials are not available to everybody. Business plans are not available. They are filed confidentially with us, and so, yes, investors do not have as much information, near the information they have as they do with public companies.

Mr. LYNCH. One incident that we were faced with last year was when Silicon Valley Bank failed. When we looked at the list of investors in that company, CalPERS, California Pension Fund was a significant investor. Do you have any thoughts on that?

Ms. SENN. I know in Alabama we do have a pension fund, and we have a phenomenal team of advisors that do a great job of keeping that fund healthy. I mean, pension fund, they can weigh their own respective risks, but I know each State has an opinion.

Mr. LYNCH. Thank you. Thank you, Mr. Chairman. I yield back.

Chairman HILL. The gentleman yields back. The chair recognizes the gentlewoman from Missouri, the Chair of the Capital Markets Subcommittee, Mrs. Wagner of Missouri. She is sponsoring, attached to this hearing, the Small Entity Update Act, the Encouraging Public Offerings Act, the Increasing Investor Opportunities Act, and the Developing and Empowering Our Aspiring Leaders Act, the DEAL Act. Mrs. Wagner, you are recognized for 5 minutes.

Mrs. WAGNER. I thank you, Mr. Chairman. Mr. Case, I am going to get right to it here. You have spent years championing entrepreneurship beyond Silicon Valley through the Rise and Rest Fund. Can you explain why current capital formation policies are failing entrepreneurs in rural areas and how the proposed reforms could change that?

Mr. CASE. Thank you for your question, and we have had great success across the country, including Missouri. One of the companies we backed in St. Louis, Summersalt, is doing extremely well. The challenge for entrepreneurs in these Rise of the Rest cities, in these places outside of the major coastal tech hubs, is they generally do not have access to the capital they need to get started. They do not have the friends and family, and there is not enough local venture funds to really give them that first start, and then as they expand, they do not have the capital they need to grow the company. Creating more opportunities for more entrepreneurs in more parts of the country to get that initial capital is critically important.

The kinds of things this committee is discussing, including making it easier for accredited investors and encouraging more angel investors and support. As I mentioned in my testimony, the 1,400 regional funds that would start in the next 10 years, how do we make sure the majority of those go forward and ways to make it easier for them to raise capital so they can then invest that capital in entrepreneurs in their backyards?

Mrs. WAGNER. To that point, Mr. Case, venture capital networks are often built on elite university ties and personal relationships.

How could allowing larger venture capital (VC) funds to invest in smaller regional funds help break down these barriers and distribute capital to more areas of the country?

Mr. CASE. I agree with your hypothesis that in places like Silicon Valley, it is obviously a very robust, very successful ecosystem, but often it is sort of insular or maybe even a little bit elite. They are generally focused on backing entrepreneurs in Silicon Valley that came from Stanford or worked at Google or some other company, and so getting some of that capital focused on other parts of the country is important. As you say, making it easier for them to invest in some of these regional funds to support those funds, but also to have some insights into what is happening in those markets, some deal flow. Some of those small companies may then expand and need the capital that they could then use their core funds for.

Mrs. WAGNER. Allowing a fund investment into these smaller firms would not just benefit the venture capital firms and their investors, correct?

Mr. CASE. Correct.

Mrs. WAGNER. Okay, what would the impact be on the underfunded startups throughout the country?

Mr. CASE. More capital going to more entrepreneurs and more places will then result in more companies starting, more of them getting to the point where they are scaling and can be successful, which will drive, obviously, job growth and economic growth.

Mrs. WAGNER. Mr. Case, according to the SEC Small Business Advocate, Rule 506(c), as created by the JOBS Act, is disproportionately used by first-time and diverse fund managers because it allows issuers to broadly solicit and advertise an offering. Do you see a risk that an advanced Form D filing requirement could create hesitation among entrepreneurs and fund managers toward using this exemption out of concern they might inadvertently run afoul of technical requirements?

Mr. CASE. I think that is a concern. I did work on the JOBS Act more than a decade ago, and as I said in my testimony, I was delighted that it passed but also delighted it passed in a bipartisan way. I think it did strike the right balance in terms of enabling good things to happen, while also protecting bad things from happening, and continuing to strike that balance is obviously critically important.

Mrs. WAGNER. Ms. Matthews Brackeen, what would be the real-world impact on founders, particularly underrepresented ones, if general solicitations had to be delayed due to a pre-filed Form D requirement, and would that chill the use of the exemption entirely?

Ms. MATTHEWS BRACKEEN. Yes, it would have a chilling effect. I do not see a reason to file a form before you have gotten it done. It just would create another barrier that is completely unnecessary.

Mrs. WAGNER. I would tend to agree. Mr. Trotter, many retail investors lack access to high-growth private companies because they are not accredited. We talked about this, I am sure, with lifting the cap on private investments within closed-end funds, will provide a practical, regulated pathway for broader retail exposure to private markets without undermining investor protection.

Mr. TROTTER. Yes, I think that is a fair inference and a sensible approach.

Mrs. WAGNER. Great. Thank you. I think we are all in agreement. I appreciate you all being here, and we look forward to it. We have up to 40 capital formation bills that the Capital Markets Committee is advancing, and I look forward to getting to a markup so that we can advance those to the floor. Hopefully, get some support in the Senate, too. I thank you, Mr. Chairman. I yield back.

Chairman HILL. I thank the Chairwoman. The chair recognizes the gentleman from Missouri, the Ranking Member of our Housing and Insurance Subcommittee, Mr. Cleaver, for 5 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman. Ms. Senn, I do not know. Maybe you or some of the other panelists are familiar with the butterfly effect; that a little butterfly could alight on your shoulder, and you take a bad step and the bad step causes you to fall, and you fall and tear an ACL and then you have to go to the hospital, and it goes on. Essentially, the butterfly effect is that something seemingly inconsequential can happen, but it could have significant impacts along the way: the butterfly effect.

On March 14 of this year, the President issued an executive order entitled, Continuing the Reduction of the Federal Bureaucracy, in which President declared that certain agencies are part of the Federal bureaucracy that is "unnecessary", and the executive order (EO) eliminates non-statutory functions and reduces the statutory functions of agencies that the President calls unnecessary governmental entities. That is seemingly just something happens, and they barely mention it on the news, but one of those impacted agencies was the United States Interagency Council on Homelessness. And all of us, my experiences and life impacts my present attitude, my views, and so I am convinced that maybe in second and third place, the most significant domestic challenge we have is housing, accommodating the people of this country in affordable and decent housing.

One of the problems, that move by the President, is that it impacts the MBDA, the Minority Business Development Agency, and it also impacts the CDFI Fund. I represent an urban area mainly, and this is going to help devastate an already devastating problem impacting the country. Can you or somebody tell me how we get rid of this? I mean, how can we undo the butterfly effect? Is it possible in the real world, not the political world where people try to say something to hurt somebody else? This is a real problem. Can anybody help me?

Ms. MATTHEWS BRACKEEN. Congressman, I am not sure if we can undo it, but as I said earlier, if 44 percent of the U.S. economy is generated by small business, we would not get rid of funding for farmers because we need to eat, and we would not get rid of funding for the military because we need to keep each other safe. We should not make it more difficult to run a small business in the middle of America because that is how we drive the American economy. How do we undo it? It is with conversations like this and making certain that we do not defund the things that are running the U.S. economy.

Mr. CLEAVER. Anybody else agree with that?

Mr. CASE. I do agree with that, and I also would echo what you said around the housing situation. I think it is a national challenge to build more homes for more people at different price points and with an eye toward affordability, that there is much that can be done at the Federal level and a lot that can be done at the local and State level to unleash really a revolution in housing. I agree in the last several decades, we have not really seen the innovation in that sector. That is critically necessary, and there are a mix of things. Some of it is regulatory policy, including some of the things at the local level. Some of it is innovations around construction technologies, but we have to figure out ways to get more people in homes and get the affordability down. That is an issue in almost every part of this country.

Ms. SENN. Yes, I will just add that as 40 percent rural State here in Alabama, and our colleagues, we are boots on the ground. These people are in our backyards. We see them across our communities, and so by helping empower and grow our small businesses, they can create jobs within our States, and we are able to do that. With regard to your CDFI statement, I have talked with our local banks and credit unions, and they have very much so experienced the impact in those communities, especially in rural Alabama.

Mr. CLEAVER. Thank you, Mr. Chairman.

Chairman HILL. Thanks, Mr. Cleaver. The gentleman from Kentucky, the Chairman of the Financial Institution Subcommittee, Mr. Barr, is recognized. He is the author of the Small Business Investor Capital Access Act. Mr. Barr, you are recognized for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman. Mr. Case, excessive compliance burdens should not prevent the flow of capital into main street businesses, the driver of economic growth in our country, and your testimony that roughly 75 percent of venture capital flowed to just three States—California, Massachusetts, and New York—with 47 States left to share the remaining 25 percent, that is alarming. It is alarming for Kentucky startups that in flyover country do not have access to capital. The Private Fund Investment Registration Act of 2010 exempts private fund investors with less than $150 million in assets under management from SEC registration, but that requirement has not been changed in 15 years since it was enacted. As the chairman pointed out, I introduced the Small Business Investor Capital Act to address that issue, adjust it for inflation. Would tying the exemption threshold for certain private fund advisors to inflation help right size regulation for smaller funds?

Mr. CASE. Yes, I believe it would be a step in the right direction. More capital going to more entrepreneurs and more places, I think, will be helpful to those communities and helpful to the country.

Mr. BARR. Talk a little bit more, and you have already answered my colleagues' questions about this, but what are some of the things we can do to build on the JOBS Act to attract more capital to those other 47 States, like Kentucky, where you do have startups that do not have access to a lot of capital? We have a few private equity firms that focus on manufacturing. That is great but does not really address those venture-stage firms. We have a Bluegrass Angels group that does great stuff, helping commercialization

out of University of Kentucky. What are some of the things that we can do to add to the JOBS Act to attract capital to those startups in places like Kentucky?

Mr. CASE. I would say mixed news on this front. The Big Data in terms of how much capital is going to the 47 States, the 25 percent, is still a little bit troubling, a little bit sobering. At the same time, over the last decade, 1,400 new venture firms have started in different parts of the country. Part of the challenge is how do you get more funds like that and how do you maximize the number of those funds to succeed to their second fund and their third fund. Opening up more groups of investors, including modifying the credit investor language and rules, would be helpful in that regard.

Anything that could get more capital into more fund managers in these communities because they are much likelier to find the entrepreneur in their own backyard, back those entrepreneurs, mentor those entrepreneurs, and then when they scale, connect them to the other entrepreneurs in other regions and other parts of the country. It really has to start locally. If people cannot raise that capital locally, they often decide they have to move to the coast, places like Silicon Valley, to really have a shot at the American Dream.

Mr. BARR. Thank you for that testimony, and, Ms. Matthews Brackeen, I want to ask you about the SBIC licensing process and the experience you had with Lightship. We have some folks in Kentucky who want to start SBICs. They have private capital to help put up, but the licensing process seems to be very cumbersome at the SBA, and when you talk about getting capital to parts of the country that need it and do not have it, this is a big impediment at the Small Business Administration. Do you think that the licensing process is a barrier to new SBICs being formed in the Heartland of our country? I am told by some of these folks that want to start an SBIC that it is like in a black box over there. People apply and then hear nothing. Until they do, it could be months and months before they even get a response on whether their application has any issues.

Ms. MATTHEWS BRACKEEN. I would say that we had the opposite situation. I feel as if there was a lot of transparency around the process from start to finish, from deadlines to when we would hear back on certain portions of the application. It is an arduous process. There are Federal Bureau of Investigation (FBI) background checks. There are background checks with lots of different people. I will say step by step, that SBIC team was equipped to say yes if they could, if we had the experience necessary.

Mr. BARR. My experience with my constituents is that you have to have experience with an SBIC in order to be approved, and it is a chicken or the egg. How are we going to get more SBICs if the SBA will not approve them for people who have never done them before? We need to work on that with Administrator Loeffler.

Finally, a quick question for Mr. Trotter. I introduced the Regulation Advancement for Capital Enhancement Act that would streamline Reg A, reducing the waiting period for offering statements filed with the SEC under Reg A, expediting small and medium enterprises like in the horse racing industry, innovative companies that securitize thoroughbred racehorses, democratizing

horse racing so that all Americans can invest in helping capital formation. When done in a manner that maintains robust investor protection, Mr. Trotter, what are the benefits of streamlining SEC filings under Reg A?

Mr. TROTTER. I think your proposal is a great step in the right direction. The difficulty in my mind with Reg A has always been not necessarily the limitation on the amount that you can offer, although that is certainly a factor. The difficulty is that to do a Reg A offering, you are doing almost all of the work of a regular way IPO, and so if you are going to do almost all of that work, you might as well do a little extra work and have a real IPO. That is the challenge that Reg A has always faced, in my experience.

Mr. BARR. Thanks, Mr. Trotter. Thank you. I yield.

Chairman HILL. Thank you, Chairman Barr. The chair recognizes the gentleman from Illinois, Mr. Foster, the Ranking Member of our Financial Institutions Subcommittee, for 5 minutes.

Mr. FOSTER. Thank you, Mr. Chairman. I guess I would like to start by congratulating the Trump Administration on delivering from its campaign promise of using technology to make the most transparent administration ever, that they are really doing very well on that.

I want to say a little bit about trying to get geographic diversity into investments because I guess I have a little bit of seniority on Mr. Case since it was 5 decades ago that I started my company with my little brother and 500 bucks from my parents, and now manufactures the majority of the theater lighting equipment in the U.S., about 1,500 employees. We manufacture in Middleton, Wisconsin, and Mazomanie, Wisconsin, and you are forgiven if you do not know those, but it strikes me that there are two barriers to trying to make businesses work in the heartland. One of them is capital, which we have discussed a lot. The other one is access to people, and that depends a lot on the nature of the business.

If you are trying to scale a chain of doughnut stores, you have all the people you need in any city in the United States. If it is a really high-tech firm, then there is trouble because you often have to recruit both spouses, and this is a classic part. It is called the two-body problem in academics, and it is a huge thing. If you have a top-of-the-line software developer or a biotech person, you can get them to move to Chicago or to Madison or to Austin. You cannot get them to move to Dixon, Illinois and it is a huge problem. Mr. Case, you have been struggling with this, and I think that is part of the reason why we have made so little progress on this. What is your thinking on that second barrier?

Mr. CASE. No, I totally agree with your assessment. Capital is important, but in some ways, talent is more important. You need the talent to get started, you need the talent to scale, and it is more difficult to get that talent in certain parts of the country. We have seen examples of successes, including in Illinois, cities like Chicago, bigger cities, but even——

Mr. FOSTER. Oh yes, Chicago has been the number 1.

Mr. CASE. I was going to say, as you well know, in normal Bloomington Rivian has done quite well in scaling quite rapidly. You need to find the opportunity that leads people to not want to leave and creates a boomerang of people who want to return be-

cause they really believe that is happening. Then you start building that ecosystem and leveraging the national labs, which are spread around the country, and the research universities that are spread around the country. One company, back in Atlanta called Hermeus is working on Mach 5 engine, is in Atlanta because Georgia Tech is turning into a feeder of talent, young engineers and others who can be part of that, so the talent exists in these cities. It then tends to go to the coast. We need to keep more of that from leaving and get more of it to return.

Mr. FOSTER. Yes, I think we should just pay more attention to that second issue and understand if that is something that can really be overcome or just something we ought to design around.

Now, the issue of accredited investors, it strikes me that there are sort of two dimensions here, one of which is the wealth, the ability to bear losses, and that is important. The other one is the knowledge, and it strikes me there are multiple dimensions to that knowledge test because there is the knowledge of just the nature of investment, and there is a big spread in the sophistication of investors. There is the accuracy of the auditing of the financials, all right, and then there is the understanding of the actual business model.

Mr. Newell, in the history of your company that you went through in your testimony you had very sophisticated initial investors from which you raised the first couple hundred million bucks, and then you went public, and then you described a big bubble in the valuation when a bunch of, frankly, dumb money came sitting around during coronavirus disease (COVID), sitting on the couch saying, biotech is interesting, I will invest in biotech firms. I imagine most of those public investors did not know the difference between an antibody drug conjugate and a hole in the ground, but they just wanted to invest in biotech.

Most of those investors, the money they put in has been wiped out because now the sophisticated investors know you were doing something that had a low probability of success and a huge payout, and they provided a valuation. The public investors had no idea. I was just wondering is there a reason why we should maybe look at that second dimension of the sector that you are investing in and have different thresholds in different sectors, so that a chain of doughnut shops have a very low threshold because everyone can understand it, and for complex sectors, maybe a different set of qualifications?

Mr. NEWELL. Congressman, thank you very much for that question, and I think that is an astute observation. The biotechnology industry, which I have been in for over 25 years, was not something that came to me naturally because I did not take science in school, so I had to learn progressively, year over year, what the industry is about, what the science is about. I already had the business fundamentals because my background is a corporate lawyer. I understood the business aspect of it, and it is a unique issue where you see in the capital markets, public, people who do not know anything can invest, but in the private markets, people who do not know anything can invest if they have a lot of money.

Mr. FOSTER. I am afraid my time is up, but if any of you have thoughts on that, about having sort of different thresholds for dif-

ferent sectors based on the complexity, I would be interested in hearing.

[The information referred to was not submitted prior to printing.]

Chairman HILL. The gentleman yields back. Thank you so much, Mr. Foster. The chair recognizes the gentleman from Texas, the Chairman of our Small Business Committee, Mr. Williams, who is also the author of Expand the Protections for Research Reports Covering All Securities of All Issuers. Mr. Williams, you are recognized for 5 minutes.

Mr. WILLIAMS of Texas. Thank you, Mr. Chairman. Thank you all of you for being here today. The JOBS Act made it easier for broker-dealers to issue reports about small, growing companies planning to go public by exempting these reports from being treated as an offer to sell securities. This exemption has been instrumental in facilitating access to research coverage for small and emerging companies, helping them attract investor interest in the IPO process. However, the current provision is limited to emerging growth companies, leaving out a vast number of potential issuers who could also benefit from increased transparency and market insight. My bill would expand the research report exemption to include reports about any issuer that undertakes a proposed public offering of securities. This would enhance market efficiency, providing investors with more comprehensive information, ultimately helping to level the playing field.

Mr. Trotter, could you explain how such an expansion would benefit the marketplace without compromising investor protection, especially as research analysts remain subject to robust SEC and Financial Industry Regulatory Authority (FINRA) regulations?

Mr. TROTTER. Yes, this is a perfect example of how the IPO onramp provisions can be extended, so you are building on an existing exemption that is available for emerging growth companies relating to their equity securities. Your bill would expand that to all companies, regardless of their size, regardless of whether they are emerging growth companies, larger companies, and would apply not only to equity securities, but also to debt securities. We have 13 years of experience with the exemption. It has been very helpful for emerging growth companies to have uninterrupted research written on their companies, and it would be beneficial for all companies to benefit from that as well. It is also based on an SEC rule that is a little bit more limited than your provision, but your provision would be very helpful.

Mr. WILLIAMS of Texas. Okay. Thank you. Access to capital remains a critical challenge for many small businesses across the country, particularly those in rural areas, and I represent a lot of rural area in Texas, and many rural entrepreneurs are still struggling to secure funding they need to grow and survive, primarily because of regulatory and compliance burdens. Despite the legislative efforts to ease these barriers, there are still significant gaps when it comes to ensuring small rural businesses have plenty of options to access crucial capital. Ms. Matthews Brackeen, can you elaborate on what challenges rural small businesses are currently facing in assessing capital?

Ms. MATTHEWS BRACKEEN. Absolutely. We service lots of entrepreneurs and founders around the State of Ohio, especially in rural

areas. The capital is not there. They are many times having to leave their cities or enter programs that are offered by our State or the Federal Government so that they can access capital. It is incredibly difficult, but it is possible. We have met people in Youngstown, Ohio, building $14 million companies, but it is possible, but incredibly difficult. I think if left to our own devices, capital markets are really going to go to concentrated areas here in the country, and those people will be left out.

Mr. WILLIAMS of Texas. Okay. Now, small businesses are facing an increasingly difficult environment when it comes to securing capital. We have talked about, particularly, given the rise in regulatory compliance costs, the concentration of venture capital funding in States like California, New York, and Massachusetts. For many small businesses outside of these traditional investment hubs, the lack of capital resources and difficulty of meeting regulatory requirements creates significant obstacles to growth and sustainability. This situation not only limits the small business growth potential, but also hampers economic development in communities that could greatly benefit from entrepreneurial investment. Mr. Case, from your experience, or I am sorry, would any of the capital formation policies discussed today make it easier for unrepresented entrepreneurs or those from flyover States to raise capital?

Mr. CASE. Yes, it is always going to be a challenge to start a company anywhere. It is a bigger challenge if you are not in one of the major coastal tech hubs, and the legislation that is being considered by this committee will be a step in the right direction to make it a little bit easier for entrepreneurs in places that are not where most of the capital is right now to have access to capital to get started and scale their businesses. I think there is some constructive conversation. I have read every single one of the 37 bills that have been proposed, but the summaries I have read have been, I think, helpful and build on the work of the JOBS Act more than a decade ago.

Mr. WILLIAMS of Texas. All right. Thank you very much, and, Mr. Chairman, I yield my time back.

Chairman HILL. The gentleman yields back. The chairman recognizes the gentleman from California, the Ranking Member on our Task Force on Monetary Policy, Mr. Vargas, for 5 minutes.

Mr. VARGAS. Thank you, Mr. Chairman. Again, I appreciate, very much, this hearing. I want to thank all of the witnesses here today. I have two lines of questioning today. I would like to ask about risk and investors' protection and also about the diversity of access to capital around the country. Mr. Trotter, welcome back, by the way. Good to see you again.

Mr. TROTTER. Thank you.

Mr. VARGAS. I am tempted to give you more time to answer the ranking member's question on Elon Musk's conflict of interest, but I think I will skip that one for you, give you a break, but I do want to ask about this. On page 3 of your testimony and also your testimony today, you say a few things. None of the proposals would alter any of the robust antifraud provisions of the Federal Securities laws, then you go on to the two key proposals. On the list of proposals, two are by far the most important: extending the IPO onramp based on 13 years of successful experience, just talked

about that, and expanding eligibility for well-known seasoned issuer status based on decades of successful experience. You did mention the 500 largest companies, the market cap that they control, and I do agree with much of what has been said, but how do you make sure that these small investors, these new people coming into the market, do not get screwed?

Mr. TROTTER. Again, I would begin with the antifraud provisions of the Federal securities laws, which are very rigorously enforced by the private securities bar, frankly. Class action litigation is a real thing. When your stock drops significantly, you do get sued.

Mr. VARGAS. We had Bill Lerach in San Diego, and very familiar with that.

Mr. TROTTER. Yes.

Mr. VARGAS. You get Lerach'd.

Mr. TROTTER. That is by far and away the most significant source of discipline in our capital markets, and none of these provisions before you, just like the JOBS Act, alter the liability matrix under the 34 Act or the 1933 Act. It is very robust, and that is——

Mr. VARGAS. I mean, you talk about the 404(b) that you do not have the independent auditor give them a little more time for these small companies to onramp. How does that not get more risk?

Mr. TROTTER. Yes. The 404(b) is an internal controls audit. It is separate and apart from the financial statements audit. Every public company has an independent auditor that is PCAOB registered, every single one. The JOBS Act did not change that. The JOBS Act extended an onramp that already existed under SEC regulations for new public companies that got a little more time before they had to do 404(b) compliance. Again, my point on that is, it is directly targeting the top of the market, the high end, largest——

Mr. VARGAS. just scaling.

Mr. TROTTER. Exactly, scaling that regulatory burden.

Mr. VARGAS. Okay. Thank you. Mr. Case, you are talking about diversity of access to capital and entrepreneurship, and thank you again for your efforts. One of the things we talked about briefly here, is housing. I asked artificial intelligence (AI) what is the price differential in homes from Silicon Valley and Arkansas. In Silicon Valley, it is over $2 million now. In Arkansas, it is $299,500. I mean, it seems to have a natural opportunity there in Arkansas versus Silicon Valley. Why you do not just have naturally reoccurring or the occurrence of these investments in places where people can afford to live?

Mr. CASE. I do think there are some significant cost-of-living advantages in many parts of the country, including, and as you mentioned, in Arkansas. That is one of the reasons people might consider staying where they are or moving back to some place, but you still need to have that innovation engine in that community. You still need to have enough startups, enough critical mass to be able to have venture funds, have enough venture fund success, so you can do kind of follow-on investing, which then leads people growing up there, going to school there, to stay there. Maybe even some of the people who left for what they thought were greener pastures to return. There are huge advantages all across the country in terms of the cost of living, cost of doing business, huge advantage in terms of understanding some of the legacy industries. Now that

we are moving into the third wave of the internet, agriculture and many other sectors are being reimagined. Manufacturing is being reimagined. The skill set around that does exist for the most part.

Mr. VARGAS. One of the things that you did not talk about, though, is cultural also. It is interesting that on the coast that everybody likes to beat up on. I live on the coast. I live in San Diego. We are rather progressive in how we look at young entrepreneurs, and also we have different types of entrepreneurs. You have a lot of people from different countries that have come to our State, and we do not discriminate. Our gross State product now is over $4 trillion. It is the 5th largest economy in the world if it was a country. You go to some of these other States, they do not want immigrants. They beat up on them all the time. These universities, they go after them. They make fun of Ivy Leaguers here and all of a sudden say, well, why these young smart kids do not come to these States? Well, I wonder why. Anyway, with that, I will yield back.

Mr. STEIL [presiding]. The gentleman yields back. The gentleman from Georgia, Mr. Loudermilk, is recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Mr. Chairman. Thank you all for being here to discuss this important topic, and, Mr. Trotter, I want to ask you about the decline in initial public offerings over the past decades. As you have mentioned, while the JOBS Act of 2012 helped lower IPO barriers from a compliance perspective, and we have seen some recovery in the IPO market driven by large companies, small companies continue to see a decline in IPO activity. To what extent is the underwriting cost for IPOs a barrier to entry for would-be public companies?

Mr. TROTTER. My focus is on the regulatory burden, which I think is very significant, and I think Mr. Newell hit it on the head when he said the easiest way to fix this is to extend that IPO onramp concept that we already have.

Mr. LOUDERMILK. Okay. You brought up the regulatory burdens, and how have they reduced a new company's willingness to help take smaller companies public, or underwriters to take small companies public rather?

Mr. TROTTER. Sure. By reducing the regulatory burdens associated with going public, and then by extending the regulatory relief that you get as a new public company, you make the whole process more streamlined.

Mr. LOUDERMILK. Okay. My understanding is underwriting fees are the largest single direct cost associated with an IPO. Has the current regulatory environment driven those fees up, and could rightsizing a particular regulation help bring those fees down?

Mr. TROTTER. Again, I tend to think that those fees are market driven, and the way that you can most effectively help the system is, in terms of especially with IPOs, simply extend the IPO onramp. We have 13 years of success. Make it a longer period, not just limited to 5 years, but 10 years post IPO.

Mr. LOUDERMILK. Okay. Thank you. I want to kind of follow up on something that my colleague, Mr. Vargas, had brought up, and you have spoken before and here today, about the need to extend the IPO onramp from the JOBS Act. One of the benefits of onramp and emerging growth companies designation from JOBS is that exemption from the Sarbanes-Oxley 404(b), as you were discussing

earlier. Can you expand on what is the provision in Sarbanes-Oxley and why it is so difficult to comply with for new companies?

Mr. TROTTER. It is a provision that originally comes from banking regulation, so it is focused more on the internal control process that a company would have, and it is related to ultimately safety and soundness concerns of a particular company. What happened with Sarbanes-Oxley is that system was imposed on the entire public company ecosystem, notwithstanding the fact that what the best way to target that regulation would have been to target it at the companies that pose the most systemic risk. Again, total market capitalization is almost exclusively much, much larger companies, so you can readily give significant relief to newcomers, new entrants into the system, and without any offsetting increase in systemic risk to total market cap.

Mr. LOUDERMILK. Okay. Something else I would like for you to elaborate on, you have made it clear in here that an exemption from 404(b), an extension for EGC is safe. Why do you feel that is safe?

Mr. TROTTER. I would point you to 13 years of successful experience with new IPO companies, and again, the IPO onramp concept was borrowed from SEC rules. Even under SEC rules, regardless of the size of a company, as a new IPO company, you get until your second annual report before you have to comply with section 404(b). That is just a recognition of the fact that it takes a lot of time to put all those processes in place. With companies that satisfy the EGC definition, as long as they continue to do so, they have that relief. Again, Mr. Newell's point, spoken like a CEO, that relief can and should be extended based on 13 years of successful experience. It is no longer experimental. We have the data. You have done it. It succeeded fabulously. You should extend this concept.

Mr. LOUDERMILK. At that stage of a company's growth, 404(a) is adequate as far as the internal management assessment?

Mr. TROTTER. Yes, absolutely. Management is required to maintain effective internal control over financial reporting. They are required to assess the effectiveness of it and certify to it. Mr. Newell has signed his name on the dotted line as to that effectiveness. This is a very significant enforcement mechanism on its own, but then to have, in addition to the financial statement audit, which is a big undertaking, a separate internal controls audit is a significant cost.

Mr. LOUDERMILK. Okay. Thank you. I yield back.

Mr. STEIL. The gentleman yields back. The gentleman from Illinois, the vice ranking member of the committee, Mr. Casten, is recognized for 5 minutes.

Mr. CASTEN. Thank you, Mr. Chair. Thank you all for being here. I think, and I am sure my colleagues will correct me if I have this wrong. I think Dr. Foster and I are the only two members of this committee who actually have entrepreneurial experience in terms of taking a business from an idea, through attracting talent, fundraising, making it into something that was cash-flow positive, and ultimately selling on the back end. I say that not to brag, but to say that it is important that our Nation's CEOs have representation in Washington. They often do not have a loud enough voice.

Speaking as one myself, our Nation's CEOs desperately would like more access to capital without constraints. Certainly in my own expert experience, it was a nuisance having young, whip-smart MBAs rifling through my books and questioning my wisdom from the local private equity fund. I also did not particularly want to get involved in all the nuisance of public disclosure that the SEC would require for investor protection.

If you are fortunate enough to have someone of Dr. Foster's and my temperament and wisdom, you do not need investor protection. All you need is our wisdom as entrepreneurs. Not everybody has that, of course, and I say that because the United States economy is the envy of the world because historically we have balanced that tension between access to capital for entrepreneurs and making sure we have deep capital markets. We have the deepest capital markets in the world. We also have robust investor protections.

If we have learned anything from the first 65 days of the Trump Administration, arsonists can work a lot faster than home builders do. Things take lifetimes to build, from our relationships with our European allies, to basic decency, to basic national security protocols, can be destroyed overnight and take a long time to rebuild. We have seen, what, $4 trillion of collapse in equity values. We have seen a collapse in mergers and acquisitions (M&A) activity. We have seen a large number of private equity firms who are now raising debt in order to pay dividends, which I think is banker speak for let us kick the can down the road and hope that a future administration will fix what just got broke. It feels to me in this moment that we need to be doubling down on investor protection because that is who is going to get hurt if we are not careful.

To that end, Mr. Trotter, I would like to chat a little bit about some of these fund-to-fund structures. My understanding, and correct me if I am wrong, is that right now, if you are going to set up a registered fund-of-funds, you have a registered investment advisor (RIA) who has a fiduciary obligation to the fund. Got that right? If you were to bring retail investors into that structure, would that RIA have provided investor protection for the retail investors, or would that be treated as a separate class?

Mr. TROTTER. That is outside of my area, so I would have to get back to you on that.

Mr. CASTEN. Okay. Does anybody know the answer to that question because the concern is you do not want to have like multiple tiers in the capital structure that could run down. Let me stay with you, Mr. Trotter. Right now it is also my understanding that SEC staff positions have generally said that fund of funds should not have more than 40-percent investment in any fund to maintain diversity, but that is not a formal rule. It is sort of general guidance. Do I have that right?

Mr. TROTTER. I am sorry. My area is in the 1933 and 1934 Act, and that is my area of expertise. I am probably not the right person to comment on 1940 Act——

Mr. CASTEN. Okay. I guess what I am asking is, it seems to me like there is a benefit in diversity, and I think there is a bipartisan agreement of increasing access to these vehicles. Do retail investors have protections in those under current structure? Do we have to add additional rules? I guess, Mr. Case, I would turn to you. Do

you think if we were to make this expansion, that we should ensure that those fund of funds have some kind of mandated diversity of funds or some additional protection for retail investors who do not have the sophistication that the fidelities of the world or the pension funds do?

Mr. CASE. A couple of points. First of all, I think in terms of retail investors who might become able to invest in companies or funds if there is a change in the rules around accredited investors, actually investing in funds for most of them might be the smarter way to go. It is a little bit why investing in a stock market you can pick stocks so you can invest in a fund manager who will manage it for you. You might not get the full upside than if you pick them, but you also sometimes can hedge some of the downside. So actually making it easier for people to invest in more diversified funds that are investing in multiple funds or multiple companies, I think, is important.

Mr. CASTEN. I guess the concern, unless we put in the kind of disclosures that public companies have, you have retail investors who may not have the sophistication, do not understand the liquidity issues, do not understand the way the capital structure was set up, where they are going to be underwater in most likely scenarios. How do we get that protection if we do not have the kind of disclosures that we have in a SEC environment?

Mr. CASE. I do think the process of deciding what an accredited investor should be and what kind of test should be put in place other than just wealth. I think there are a number of proposals being considered. I am sure the SEC can figure out an appropriate way to strike that balance. Now having——

Mr. STEIL. The gentleman's time has expired.

Mr. CASTEN. I am out of time but welcome any continued comments. Thank you. I yield back.

[The information referred to was not submitted prior to printing.]

Mr. STEIL. The gentlemen yields back. The gentleman from Ohio, the Chairman of the National Security, Illicit Finance, and International Financial Institutions Subcommittee, and the sponsor of H.R. 145, the Risk Disclosure and Investor Attestation Act, Mr. Davidson is recognized.

Mr. DAVIDSON. I thank the Chairman. I thank our colleagues and our committee. To Mr. Casten, he and Mr. Foster may be the only two Democrats with private sector experience, but, thankfully, that is not true of the Republican side of the aisle. I hope he gets to know some more of us better.

The witnesses do have lots of private sector experience. I appreciate you guys being here, and, frankly, for some of you, I have really admired what you have done, Mr. Case in particular, who did not notice the rise of AOL and a lot of the work you have done since, but I noted that you have ties back to Cincinnati with Procter & Gamble, and, of course, Ms. Matthews Brackeen, based out of Cincinnati. So great to see our slice of America so well represented here today, and that is part of the goal is America does so well. With less than 5 percent of the world's population, we have roughly 25 percent of the world's Gross Domestic Product (GDP) but over 50 percent of the world's invested capital.

Unfortunately, that capital is not all invested in Cincinnati and Western Ohio and Ohio as well as it is in some other slices of America, and I think it is great that we have this hearing today to highlight how we can help see some of that capital flow invested differently. Frankly, one of the concerns I have had is for small and mid-market firms, in particular, when they want to raise capital, they do not really have as big of an offering. They do not even intend to build an enterprise that is going to attract the kind of valuations that do well in IPOs. You have to raise pretty substantial capital to cover the regulatory barrier, and then if you want to even solicit an offering, often that offering is shaped by rules that are fundamentally, they say, to protect investors.

The reality is, we know it is really protecting deal flow for a lot of people that are already wealthy and they get first looks at some of the deals, and that is why I have introduced the bill Mr. Steil referenced, which is the Risk Disclosure Attestation Act, which is, since it is my money, let me acknowledge the risks and make my own investments. While here in Congress we might not have a path to do that, my hope is that we could do that in Ohio. Ms. Matthews Brackeen, if we could simply have that Act pass in Ohio with the limitation that you are soliciting investment from Ohioans and not across State lines, what would that do for a fund like what you are operating in terms of the ability to raise capital and deploy it in Ohio?

Ms. MATTHEWS BRACKEEN. It would definitely help our fund but also entrepreneurs around the State. The gentleman from Kentucky earlier today referenced the Bluegrass Angels. That group was formed from Kentucky tax credits, allowing investors to invest and into companies from Kentucky. That was an incredible program for them, and they saw lots of other new angel groups pop up around the State. With what you are saying, I think that Risk Disclosure Attestation Act would definitely be helpful in the State of Ohio.

Mr. DAVIDSON. Yes. We can hopefully do that for the whole country, but if not, I have been talking with our lawmakers that are State-based and saying, why cannot we do some of these nice things for our own State, make Ohio a better destination for capital. Mr. Case, in your opinion, what kinds of opportunities are being missed by places like Ohio as so much capital is flowing to three States that you highlighted in your opening testimony?

Mr. CASE. Mr. Davidson, my first job was in Cincinnati. I enjoyed my time there. My second job was in Wichita, Kansas. I enjoyed my time there. I was born and raised in Honolulu, Hawaii, and then started AOL in Northern Virginia. Maybe that helps inform some of my empathy and passion around the rise of the entrepreneurs building companies in other places. I think it is also worth noting that venture capital is a relatively new concept. It did not exist 60, 70, years ago, then if you had an idea, you went to the bank and got a loan, but banks usually do not loan to risky startups unless there is a personal guarantee, which also creates some risk. Venture capital becomes a path for people to start companies if they do not have capital or easy access to capital, and some of the things that this committee is considering that will make it easier for new venture funds to start and scale in places

like Ohio and other parts of the country, I think, is a step in the right direction.

As these companies scale, making it a little easier to consider going public as a young emerging growth company also is important. That is obviously a key part of the JOBS Act that I worked on more than a decade ago, I think. We have made progress. We continue to be the most innovative, entrepreneurial Nation in the world, but we can continue to build on that and try to create a more inclusive innovation economy so it is not just the coast. It is everybody everywhere.

Mr. DAVIDSON. Thank you for that. One area that I hope we get to is debt, because whether companies want to do an initial public offering or not, their ability to solicit debt outside of bank debt because there are risk classifications that are different, could really help capital formation. My time has expired, and I yield.

Mr. STEIL. The gentleman yields back. The gentleman from California, Mr. Liccardo, is recognized for 5 minutes.

Mr. LICCARDO. Thank you, Mr. Chair. Thank you all for your testimony. It has been very informative.

Mr. Case, I really want to thank you for your pioneering work in our innovation economy and for your work with Rise for the Rest. It is important. I think we all recognize him from Silicon Valley, but it is important that opportunity be broadly distributed in our country. I appreciate your great work there, as well as with President Obama's Council on Jobs and Competitiveness, which ultimately resulted in the recommendations we see that form the JOBS Act in 2012, which I think has spawned great progress, though, obviously, we have much more work to do.

In page 4 of your written remarks, as well as a little bit in your testimony, we have heard a bit about your view of talent that is not just about capital flows. In fact, talent can be more important than capital. Specifically in page 4, you talk about high-skill immigration, and I agree with your assessment. Talent is evenly distributed in this world and across the globe, and as we think about the imperative for ensuring access to talent in our country. You mentioned certainly the Heartland Visa, which is promising. Would not it be true, also, that, generally, lifting the lid on immigration, particularly high-skill immigration, would be a great boon for the entire country? For example, if at the University of Arkansas they could staple a green card to every diploma, a graduate in science or tech, would not that do great wonders for Arkansas?

Mr. CASE. Yes. No, I have been vocal about this for 2 decades, testified in the Senate around immigration reform over a decade ago. I believe part of the secret sauce that has powered the American economy is being a magnet for talent, people coming here from all around the world, which does not mean we, of course, do not want to develop our own talent and improve our education system and teach smart skills around creativity, communications, collaborations, the things that are critical for entrepreneurial success. We need to continue to remain that magnet that attracts people because about 40 percent of our successful companies that are going public were started by immigrants or children of immigrants.

I understand it is tied up in a much more complicated and very sensitive, highly politically charged discussion around immigration,

but I think we do run the risk of losing our edge now that we have seen a globalization of innovation, a globalization of entrepreneurship, a globalization of the capital markets. I think it is very important that Congress continue to focus on this issue and figure out how to strike the right balance so we can continue to attract people when they graduate from our universities. As you say, staple green card, make sure that we are keeping as many people here as possible, attracting as many people to come here as possible because the data is pretty compelling that these are not job takers, but job makers. Having more entrepreneurs building more companies that are creating more jobs and driving more economic growth and doing it in more parts of the country, I think, is essential as we think about this next chapter for America.

Mr. LICCARDO. Thank you, Mr. Case. I appreciate that. As you know, I come from a region of the country where more than 40 percent of our adults were born in a foreign country. I think that has something to do with the secret of our success, and more than half of our venture-funded startups, in fact, have a foreign-born founder. I would like to see that happen elsewhere in the country as well.

Mr. Newell, I really want to thank you for your leadership in the Bay Area as a business leader, and certainly with BIO, which is an incredibly important organization for biotech industry. I agree with your fundamental notion that we need to expand the definition of "accredited investors" to really get a more sophisticated definition that focuses on the competence, the capacity of the investor, not simply their wealth. You seem to acknowledge that Mr. Foster's recommendation was not a bad one of having actual sophistication applied to industries or sub industries, but we are currently facing an administration that is essentially defunding the financial police at the SEC. How can we do that in a world in which we have fewer and fewer folks to actually implement?

Mr. NEWELL. That is the conundrum, to be honest. In order to expand access to capital, you need to expand the people who we think are rightly able to assess the risk of an opportunity. At the same time, as Mr. Trotter talked about, there are fundamental laws that are necessary to protect the integrity of the capital markets and to protect investors as well. If we have lawyers leaving the SEC, we will have less enforcement, and that allows for more fraud to occur. If we have reviewers leaving the SEC who are not replaced, then your process of actually getting your registration statement filed, processed, and approved is going to take longer. It presently takes about 90 to 150 days in order to do that, so making it longer would be harder.

Mr. LICCARDO. Thank you, sir. I yield my time.

Mr. STEIL. The gentleman yields back. The gentleman from Tennessee, Mr. Rose, is recognized for 5 minutes.

Mr. ROSE. Thank you, Chairman Steil, and I want to thank Chairman Hill and Ranking Member Waters for holding this important hearing, and thank you to our witnesses for taking time to be with us today. I know it is a sacrifice when you come to do this, and we appreciate it.

Most venture capital funding is concentrated, as we have heard discussed today, in California, Massachusetts and New York, de-

spite these States having high individual income tax rates. Meanwhile, my home State of Tennessee proudly boast no State-level individual income tax, yet Tennessee lags behind these other States in venture capital funding. Mr. Trotter, what factors contribute to this disparity? I know we have heard some of that today, and why States like Tennessee do not, which would seem to foster interest from investors because of the tax treatment, why do they have a significant economic advantage over Tennessee and attract more venture capital funding?

Mr. TROTTER. I think you are going to the heart of a lot of what Mr. Case has spent a long time trying to solve. I would defer to his insights on the answer to that question. My perspective is simply to foster IPO activity. You want to streamline that process and make it less burdensome, and you want to make it less burdensome for a company, once it is public, to begin life as a new public company, and extend the period of relief that is available for those companies based on 13 years of successful experience.

Mr. ROSE. I will take you up on your challenge, and, Mr. Case, you might speak to that. It would seem it is, at least to me, and as my friend, Mr. Davidson, pointed out, many of us on this side of the aisle were successful in starting businesses, and I certainly was and thankful to be in a State like Tennessee, where we got favorable tax treatment. Speak to that, if you will.

Mr. CASE. There is a lot going on in Tennessee. I know it pretty well. I actually have a couple grandkids growing up in Nashville. We have investments in Chattanooga and other parts of the State. Actually our first Rise of the Rest tour was over 10 years ago. Nashville was part of that visit, so the momentum there and the cranes building, they are showing real momentum in that city. As you say, though, a lot of it is attracting bigger companies, in part, because of tax, but also the talent pool and other kinds of things to be there. The question is, how do you get more of the entrepreneurs staying there and starting there, and that ties in with some of the things we have been talking about today, having more regional venture funds that are based in Tennessee matters. Having people focus in the area, including things like the Startup Tennessee efforts and having the National Entrepreneurship Center, helps enable more momentum there. I think the momentum is building in Nashville and Chattanooga and other parts of the State, but it can go higher.

Obviously, Tennessee is a big State with a lot of opportunities, but still, relative to other places like California, New York, Massachusetts, are not getting access to the capital. That does lead some of the people growing up in Tennessee to decide to leave, to go the coast. We have to stop that or at least slow that.

Mr. ROSE. Is it about that critical mass? Is that really the factor, or are there things that Tennessee and other States are not doing that they should be doing to foster that?

Mr. CASE. Well, a number of things. We have talked about capital access. That is critically important. If you do not have the ability to start the company, it is obviously not going to get started. We have talked about talent, how do you make sure you have a critical mass of talent, which is why clustering in different cities makes sense. It does not just have to be a few cities, though. We

want it to be dozens and dozens of cities. There are some cultural aspects. I think Tennessee is doing a good job of this, but how do you make sure entrepreneurs in your community recognize that you are celebrating their risk taking, and if they fail, encourage them get up again, try again in some communities that people would then be branded to failure?

One of the great things about Silicon Valley is that it is just viewed as a part of the process of becoming an entrepreneur. Sometimes including me, I got it wrong the first time before I got it right with AOL. So creating that culture where people recognize the importance of entrepreneurs, recognize they are the innovators, they are the pioneers, it does take a lot of risk and be supportive of them, I think, is critically important, but Tennessee is doing well.

Mr. ROSE. You mentioned, Mr. Case, in your written testimony, highlights of the importance of competing globally with China by boosting investments in research and development at our universities, and little time left here, but in my own business startup, we eventually had to abandon the Chinese market because they stole our intellectual property. We ultimately decided there just was not enough upside there. In the 10 seconds left here, how do we confront that? We make these investments in developing IP, but do we really cash in on them as a country if we do not protect our innovators?

Mr. CASE. We do need to protect our IP, no question, with other countries now competing in the variety of technologies, AI, robotics and other kinds of things, and we need to continue to invest in that R&D. My company, AOL, would not have been possible without the government creating the internet through the investments in Defense Advanced Research Projects Agency (DARPA), so we need to make sure we are planting that seed corn of new innovation.

Mr. ROSE. Thank you. My time has expired. I yield back, Mr. Chairman.

Mr. STEIL. The gentleman's time has expired. Ms. Talib, the gentlewoman from Michigan, is recognized for 5 minutes.

Ms. TLAIB. Thank you, Mr. Chair. Many people think that the primary purpose of the stock market is to raise funds for companies, but that is not actually the case. When companies want capital for investment, they rely on retained earnings, bank loans and corporate bond market, and then maybe the stock market. Take the difference between primary and secondary markets. Ms. Senn, I do not know if you know. Can you explain the difference between primary and secondary stock markets?

Ms. SENN. Yes, if you are speaking about our very publicly traded markets, National Association of Security Dealers Automated Quotations (NASDAQ) versus over-the-counter type markets, some of them over-the-counter markets have penny stocks and higher-risk type investments versus our public markets, who have to adhere to massive disclosures and other requirements. Our smaller secondary markets also face the investors. Their risk tolerances are different on the secondary markets, I guess——

Ms. TLAIB. In 2022—I think that is why it is important—the value of stocks traded in the United States was about $44 trillion, and then the value of new securities issued by U.S. corporations that year—that is, the primary market—activity was just at $71

billion. So mostly the stock market is where early investors cash out and the wealthy speculate.

Ms. SENN. Okay.

Ms. TLAIB. Yes. I say that because the bottom 50 percent of households in our country, ranked by wealth, corporate equities and mutual funds share only 1 percent. The wealthiest 10 percent of those households, on the other hand, own 87 percent of all corporate equities and mutual fund shares. I think it is just really important to see, when we talk about this, where the real impact is, but there are institutions whose sole mission is to provide access to capital for the households and companies that they need most.

For instance, I do not know if you are familiar with CDFIs—community development financial institutions—providing financial services and access to capital to low-income individuals and communities, especially around affordable housing. That is their purpose. That is the purpose of CDFIs. However, earlier this month, the President issued executive order eliminating much of the CDFI Fund. As the law allows, it is being challenged. Can you explain what the CDFI Fund does and what the impact in eliminating might be right now?

Ms. SENN. The State securities regulators do not directly administer those funds. I did reach out to my colleagues in the banking and credit union world, and they all were emphatic about the impact that CDFIs have had on their communities. Especially, I will speak for Alabama and the rural communities. I know there was upwards of $18 million in financial impact in our community, so they provided me success stories about the program.

Ms. TLAIB. Yes. I know it is both rural and urban, but most of it is even around addressing the housing crisis that we have in our country right now. Many of the communities, the one in your community, in your backyard, one in my backyard, in Detroit, are starved for investment, and that is why CDFIs have played an incredibly important role in providing that capital, and the fund is effective. I think, on average, recipients leverage each dollar awarded by the fund into $8 of funding from the sources. It is important for my colleagues, the last 10 years CDFI Fund has helped finance over .5 million units of affordable housing, 42,000 commercial real estate projects, $17.9 million in personal loans, and $1.3 million in small business loans. I do not know how we can talk about access to capital in this committee when the President is trying to take away from the very people it helps the most. CDFIs are critical.

One last question for you, Ms. Senn. Last week, the new director of the Federal Housing Financial Agency—FHFA—maybe Bill Pulte. Is that Bill Pulte? Are you familiar with that new director? He appointed himself the Chair of Fannie Mae and Freddie Mac. Now the FHFA is the regulator of both agencies. Do you understand? Is this a conflict?

Ms. SENN. Those decisions that were made at the executive level are——

Ms. TLAIB. But we have a regulator that sits now on the board, the very Agency he is supposed to regulate.

Ms. SENN. Those are decisions that are made at the executive level from the States.

Ms. TLAIB. Is that not a conflict?

Ms. SENN. You know, I am not sure.

Ms. TLAIB. Common sense tells you it is a conflict of interest. Those are decisions——

Ms. SENN [continuing]. make no sense.

Ms. TLAIB. Okay. Thank you, Mr. Chair. I yield back.

Mr. STEIL. The gentlewoman's time has expired. I now recognize myself for 5 minutes for questions. I want to start with you, Mr. Newell, if I can.

In your opening testimony, you told the story of Sutro on the evolution from startup to public company, and navigating that is a challenge and something that we want more companies in the United States to do, and making sure that those startups have access to the public markets is essential. It was just referenced that maybe they could use retained earnings. Can startups use retained earnings? Maybe we just knock that question out of the gates. Do you have retained earnings in your startup?

Mr. NEWELL. We have no retained earnings. We have——

Mr. STEIL. Of course not because it is a startup, right?

Mr. NEWELL. That is exactly right.

Mr. STEIL. You are looking for figuring out where you have finance in the capital markets are really, really important, in particular in our startups, and you took advantage of the emerging growth company status in that startup. Is that accurate?

Mr. NEWELL. That is correct.

Mr. STEIL. Would you have been able to go public in the manner and the time frame that you did without the EGC status that was available to you, and if not, why not?

Mr. NEWELL. It would have been much more challenging for us to do that because the amount of financial resources that we would have needed to front-end load to meet the requirements of full disclosure under 404(b) would have been prohibitive. We would have had to quadruple our accounting function and hope that we still go public.

Mr. STEIL. You would have had to triple it. Then the reverse question would be, what happens when you lose EGC status? Would you have to triple that then?

Mr. NEWELL. We lost EGC status because we went over the public float threshold for a brief period of time, and it cost us a million dollars in extra fees for accounting purposes.

Mr. STEIL. So great. Would your view be that we should then reexamine the current time limit on EGC status?

Mr. NEWELL. Yes, sir, and thank you for your leadership on that.

Mr. STEIL. I appreciate that. I am going to jump to you, Mr. Trotter, if I can. Some have claimed that extending EGC status have put investors at risk. We heard actually comments from one of my colleagues here, but nothing in the JOBS or the EGC bill would alter the application for existing antifraud provisions, correct?

Mr. TROTTER. Exactly right.

Mr. STEIL. It would have no impact on EGC disclosures and reporting obligations. Is that correct?

Mr. TROTTER. Correct.

Mr. STEIL. It would have no impact on corporate governance standards. Is that correct?

Mr. TROTTER. Yes.

Mr. STEIL. It would have no impact on the reporting obligations of officers, directors, and significant stockholders, correct?

Mr. TROTTER. That is right.

Mr. STEIL. And so are investors at risk if we allow an extension of the EGC status?

Mr. TROTTER. Not at all.

Mr. STEIL. So why should we have the EGC status then in the first place?

Mr. TROTTER. Again, it is about allowing the system to scale the regulatory burden to the size of the company being regulated, and the EGC definition shows you that there is an opportunity to extend that.

Mr. STEIL. I appreciate that. I just think it is so important that we look at allowing startups to have an avenue and access into the public markets, that we are encouraging U.S.-domiciled U.S. employers to have access to those public markets so that they can grow and grow here in the United States, so that people can get good-and better-paying jobs than they already have.

In my limited time left, I want to stay with you, if I can, Mr. Trotter, and dig into the WKSI issue. Companies that qualify as well-known seasoned issuers—WKSI—are granted more flexibility in accessing U.S. public markets through automatic shelf registrations. I have a bill that would expand the WKSI status by updating the definition to apply to all companies that otherwise satisfy the WKSI definition with a public flow to $75 million instead of $750 million, again, driving that access further down into the market. Can you discuss briefly why expanding the WKSI eligibility would promote capital formation while maintaining investor protections?

Mr. TROTTER. Yes, and I am strongly supportive of this measure that you have introduced. This is a category of issuer that has been around now for more than 20 years. The SEC introduced it in 2005. It has been incredibly successful. It has been very helpful for companies going to market to take advantage of opportunistic timing and to be able to control more of their capital formation destiny as they go to market. The eligibility for short-form registration was based in 1992. The SEC looked at what companies have an efficient market in their security. That was before the modern internet, and that was before Electronic Data Gathering, Analysis, and Retrieval (EDGAR), the SEC filings even became available online. Obviously technology has drastically accelerated the efficiencies there, and your bill merges those two categories. It is a great step forward.

Mr. STEIL. Thank you very much. I thank you all for being here today. I think it is so important that we are making sure that we have capital access available to startup companies across the United States of America in big cities like New York, that is fine, but also in States like mine in Wisconsin. We are jumping over. I was going to say Indiana, but I will yield back. We will come to you in a moment, my colleague from Indiana. We now recognize the gentleman from Texas, the Ranking Member for Oversight and Investment Subcommittee, Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman, and, of course, we want access to capital in Texas as well. I thank the witnesses for appearing and would associate myself with the ranking member's opening

statement and would agree that what I am about to talk about is beyond Silicon Valley. It is about expanding access to capital, but it takes a slightly different twist because I received this communique and it indicates within that you are holding a real check for $1,250. Sure enough, there is a check for $1,250, and it goes on to indicate that if I accept this promissory note, then I should keep it for my records. I can understand why because on the reverse side of this page, there is information about what the consequences are of accepting this promissory note. One of the items indicated that I will be agreeing to is this: this has an annual percentage rate. I assume all the witnesses are familiar with the term, "annual percentage rate." If you are not, would you raise your hand? [No response.]

Mr. GREEN. Okay. Let the record reflect that they are all familiar with it. It says the annual percentage rate would be 91.27 percent—91.27 percent. I see you all looking in dismay, and I was, too. In fact, I was thunderstruck when I received this: 91.27 percent, $1,250 loan, finance charge $700, total repayment $1,950, says I will be paying $100 for an acquisition charge, $600 for installment account handling charge, and by the way, can be accelerated without notice. I think that this is egregious, and I think that while we are concerned about the businesses, and I am—I have many small businesses in my district—I am also concerned about the consumers. This type of loan, in my opinion, epitomizes what predatory lending is all about, to receive this check, a live check, that I can cash, and then receive this loan, or I might add this: it was sent to me in English and in Spanish, the offer, but the actual information concerning the contract, all of that is in English, bait you in the language that you speak, and then have you sign a contract in a language that you may not be as familiar with.

This causes me a good deal of concern because we have a CFPB that is now wounded, and I am curious as to what consumers who receive this type of predatory offer will do once they conclude that they have been in some way harmed. Who do they turn to without a Consumer Financial Protection Bureau, which leads me to what I plan to do. I am going to ask the chair of the committee to hold a hearing on predatory lending. It would seem to me that this is very important to the consumer. I appreciate what we are doing for the businesses, but the consumer is also of paramount importance, and I will be making this request, again, $1,250 loan, annual percentage rate 91.27 percent.

Just for edification purposes, would any of you accept a loan that had an annual percentage rate in excess of 90 percent? If you would, raise your hand. [No response.]

Mr. GREEN. Okay. Let the record reflect that no hands have been raised, and I will understand why. I will not put you on the spot and ask you why you would not. I would simply say, for me, it is quite egregious, and I do plan to ask the chairman to convene a hearing on this type of predatory lending. This is something that concerns my constituents. This is a kitchen table issue. Some of these other issues that we confront, they may be kitchen table issues, but they are not for the people that I represent, for the most part. Perhaps for the plutocrats, these are kitchen table issues, some of these other things, but this is bread and butter for a lot

of people in my district. Mr. Chairman, I yield back the balance of my time.

Mr. TIMMONS [presiding]. Thank you. I now recognize myself for 5 minutes for my questions.

First, I want to begin by thanking the witnesses for being with us today, and before I get on to my thoughts, my mortgage I am about to sign is 6.5 percent, and that is the annual percentage rate. If I were to get a payday loan because I needed money for a week at 2 percent, that would be 104 percent APR, so it all depends on the length of time and the need of the money. I think that we have to stop using Annual Percentage Rate (APR) because it is not a good reflection of the value of access to capital for shorter duration periods of time.

On to the topic at hand. Expanding access to capital for American entrepreneurs, specifically venture capital funds, is an important issue, not only for the startup ecosystem, but for the economic environment in general. While venture capital plays a vital role in fueling innovation and economic growth, the reality is that most VC funding is concentrated in just a few States, leaving many promising entrepreneurs across the country struggling to secure the capital they need to scale. This imbalance has real consequences. Entrepreneurs outside of major tech hubs face significant challenges, particularly when it comes to raising early stage funding, which is essential for growth. Without access to Series A and B funding, many startups never get the chance to reach their full potential. By reducing regulatory hurdles and expanding opportunities for capital formation, we can help create a more comprehensive and dynamic startup landscape, one that supports innovation and job creation in every corner of the country, not just in a handful of cities.

Mr. Case, Section 3(c)(1) of the Investment Company Act of 1940 exempts funds with fewer than a hundred beneficial owners from registration as an investment company. It also includes an exemption for qualified venture funds with fewer than 250 beneficial owners and $10 million in aggregate capital contributions and uncalled capital commitments. Can you explain, based on your experience, the difficulty in complying with these thresholds?

Mr. CASE. Thank you for your question and your preamble talking about the importance of, obviously, entrepreneurship and making sure capital is available to entrepreneurs everywhere. In terms of some of the specific rules on venture funds, I think limitations, such as you talked about, would result in, as venture firms start scaling, they would not be able to accept new investors. I think opening up to a broader range of investors, including re-looking at the accredited investor roles, would be a step in the right direction to help those venture funds that can then help invest in companies, hopefully, in their regions.

Mr. TIMMONS. Thank you for that. Ms. Matthews Brackeen, would raising the cap for the qualifying venture capital fund exemption to $150 million and increasing the number of allowable beneficial owners to 2,000 help VC firms, especially smaller firms in underserved regions, to better support entrepreneurs and drive investment?

Ms. MATTHEWS BRACKEEN. Yes, it absolutely would. It would open up a brand-new market for us. For a smaller firm, as I said earlier, kind of like a $50 million minimally viable firm, that would open up a lot of kind of smaller-dollar checks and allow us to grow new funds across States in the middle of America.

Mr. TIMMONS. Thank you for that. I am proud that my bill, the Improving Capital Allocation for Newcomers, or ICAN Act, was included in the chairman's Expanding Access To Capital package last Congress and was once again considered in the Capital Markets Subcommittee this session. The ICAN Act makes it easier for South Carolina investors to support local startups and entrepreneurs by raising the cap on qualifying venture capital funds from $10 million to $150 million, and increasing the investor limit from $250 to $600. We are removing barriers that have held small businesses back for too long. These changes will give overlooked entrepreneurs the capital they need to grow, create jobs, and strengthen our economy.

Ms. Matthews Brackeen, based on your experience, how frequently do small businesses and entrepreneurs face exclusion from the investment landscape due to excessive regulatory hurdles or high barriers to entry?

Ms. MATTHEWS BRACKEEN. Every day. It is an everyday thing, especially in my State, the State of Ohio. We have, my goodness, less than 20 large venture capital funds in our State. If you are thinking about going to each of those individual funds, some of them are only making five to 10 investments a year, and there are thousands of startups that need support in capital.

Mr. TIMMONS. Thank you for that. The last 4 years, we have gotten very out of balance with our regulatory schemes, and we are not keeping up with the legal frameworks for businesses to thrive. This country needs to be the best place to start a business, to grow a business, and we are working here in Congress with the administration to get us back in line so we can continue to be competitive in the global economy. That is what is driving a lot of the legislation. That is what is driving all of the current administration's decision making, and I think things are going very well, and I am very optimistic for the future. With that, I yield back.

I now recognize the gentleman from Indiana, Mr. Stutzman, for 5 minutes.

Mr. STUTZMAN. Thank you, Mr. Chairman, and thank you to all for being here. This is a topic that I always enjoy discussing. As an entrepreneur myself and have the experience of raising capital over the last 8 years in the private sector, it is a thrill, and sometimes it is not. It is an interesting time, especially with all of the macroeconomics, not only here in the United States, but around the world as well. There is the old saying that capital is cowardly, and there are times that, I mean, every project is a worthwhile project, but we also know that not every project works out. In fact, the majority of them do not work out, and so, we do have to be careful in that it is not just loose and that there are people that are taken advantage of, but at the same time, this is also what makes America the greatest Nation on earth.

I have a bill that I would like to ask Ms. Matthews Brackeen a question about. My bill is the Investment Opportunity Expansion

Act, which would allow an individual to qualify as an accredited investor if their aggregate investment is an unregistered securities offering if it is not more than 10 percent of the individual's net assets or the individual's annual income, whichever is greater. How would expanding the accredited investor definition, while limiting an investor's risk exposure, benefit main street investors and ultimately strengthening our capital markets?

Ms. MATTHEWS BRACKEEN. It would give people an incredible opportunity. I mentioned earlier there are lots of other things that we can spend our money on. We can spend our money on cryptocurrency, sports betting, you name it, but not necessarily things that we can really generate wealth from. That would be a wealth-generating opportunity for people across the country. I think putting guardrails, to the earlier Congressman's point, is necessary to protect people because we are in a moment where consumers need to be protected.

Mr. STUTZMAN. Yes. Would anybody else on the panel like to comment on accredited investors, the increase?

Mr. NEWELL. I think the way the accredited investor definition works today, it really does not allow for individuals who can understand and financially afford the risk to take it. If you happen to be born rich, then you are presumed to be a brilliant investor, but really, you were born rich.

Mr. STUTZMAN. Yes. No. Well, and one of the things that I often see is that a lot of folks in the Midwest, in Indiana, where I am from, they want to invest in Indiana. It is also nice to be able to see, wherever you place your money, that you can drive down the street and go visit and ask questions, and I think that is an important component to it as well.

Ms. Matthews Brackeen, I have another question as well related to crowdfunding. We had a really good subcommittee hearing on Capital Markets last month, in which we heard several witnesses on how we can expand access to capital for businesses, but many diverse founders and small businesses outside the traditional capital hubs have found funding opportunities through regulation crowdfunding. Why is this an important tool? Is it an important tool moving forward, and is there any particular comments you have to raising capital as a crowdfunding mechanism?

Ms. MATTHEWS BRACKEEN. No, crowdfunding definitely fills a gap for folks that have difficulty around raising friends and family rounds, so it gives that new opportunity. I will say that it does not necessarily signal to professional investors, however, that investment is a good investment, so there are a lot of learning that have to be had around crowdfunding as well. It is one thing to go out to the crowd, but likes do not necessarily generate revenue for a company. It is all about whether or not that company is sustainable over time, beyond that moment of the big push of the crowdfunding campaign.

Mr. STUTZMAN. There was kind of a spike there in popularity with it. Is it settling, or is it still a popular option? Where do you think it is going right now?

Ms. MATTHEWS BRACKEEN. I would say a year ago, it was much more popular. I would say we are living in a moment right now of

volatility where people are not spending their extra cash on crowdfunding campaigns.

Mr. STUTZMAN. Yes, I think the economy is really tight right now. People just do not have disposable income because either they could not spend it in investments, or they could spend it on going out to eat, and I think we are seeing that it is not happening in either one. Mr. Trotter, I would like to ask you, I have a bill that is called the Regulation A+ Improvement Act, which would increase the amount that companies can raise under Regulation A from $50 million to $150 million. Any thoughts or comments, good, bad, indifferent?

Mr. TROTTER. Step in the right direction. I think it is a helpful move.

Mr. STUTZMAN. Okay. Very good. Thank you again to all of you, and this is interesting times. Of course we have a lot of decisions to make here in Washington that will affect our economy, but those decisions do affect startups, affect growth, and hopefully we make the right decisions that people will feel confident that they can invest again and with certainty that it is a good investment. Thank you, Mr. Chairman, I yield back.

Mr. TIMMONS. Thank you. The gentlewoman from Massachusetts, Ms. Pressley, is now recognized for 5 minutes.

Ms. PRESSLEY. Thank you. For today's hearing on the subject matter, expanding access to capital, we do not need to search far and wide for a new solution, and we do not need to start reducing transparency requirements, loading up on investor risks by deregulating. Instead, we should focus on improving the institutions and regulations that help protect investors and to support businesses. For example, venture capitals funds play a significant role in directing capital to startups. Mr. Case, you are a billionaire businessman who operates a venture capital firm, so I am sure you would agree that VC funds can provide an array of necessary supports for businesses from monetary investments to technical assistance, et cetera.

Mr. CASE. Yes. Venture capital firms can back entrepreneurs and help start and scale the companies and create jobs and drive economic growth.

Ms. PRESSLEY. There is room for improvement. The venture capital ecosystem is not perfect, and I do not want you to take this personally, Mr. Case, but far too many VC firms look just like you, and they mostly invest in startups by white men. According to Forbes, 98 percent of venture capital goes to white men, despite the fact that diverse-run businesses have a 25 percent higher return rate.

Mr. Chair, I would like to enter into the record this September 2024 article titled, "Building Venture Capital That is More Inclusive Than The Boy's Club."

Mr. TIMMONS. Without objection, so ordered.

[The information referred to was not submitted prior to printing.]

Ms. PRESSLEY. I believe it is time to start supporting venture capital funds that are investing in diverse businesses. For example, in my district, the Massachusetts' 7th, Mendoza Ventures is a firm that is raking in profit in AI, cybersecurity, and financial technology (fintech), with 90 percent of its portfolio consisting of

startups led by immigrants, people of color, and women. Now, this is one VC doing this, but we need a hundred more. The status quo works great for white men, but we need to expand capital access to all entrepreneurs regardless of their race and gender. The responsibility of recognizing and confronting the disparities in capital access should not fall only on the shoulders of venture capital funds. There are other organizations that are designed to help underserved populations that this committee should be uplifting.

Ms. Senn, can you talk about why Community Development Financial Institutions, CDFIs, were created and what exactly they do?

Ms. SENN. Thank you. While the State securities regulators do not directly administer those programs, I have consulted with my colleagues in the depository institution world, and they have expressed and been emphatic about the impact that CDFIs have had on communities. I know in Alabama, we are 40 percent rural. They cited several examples of where they have been able to help those underserved areas.

Ms. PRESSLEY. Thank you. Essentially, CDFIs invest capital in businesses that would otherwise be neglected and under-resourced. In the Commonwealth of Massachusetts, we have more than 30 CDFIs, but I want to highlight one that is headquartered in Boston, investing in the businesses in my district. OneUnited Bank is the largest black-owned bank in the country. It helps create economic opportunity for entrepreneurs in chronically, economic-distressed neighborhoods. At the height of the pandemic, many of the large and popular banks were denying PPP loans to small businesses, but OneUnited and other CDFIs made sure that local entrepreneurs and their workers were able to make ends meet. I am firmly and proudly pro-CDFI.

Unfortunately, Donald Trump is not. Trump signed an executive order attacking the Community Development Financial Institutions Fund, despite the fact that it is fully authorized by Congress. He is doing the exact opposite of what this hearing is about. Instead of expanding access to capital, Trump's executive order will make it harder to access for all businesses—urban, rural, from mom-and-pop shops to tech startups—whether they are in Massachusetts or Alabama. This committee cannot have a serious hearing about solutions to help businesses succeed while Trump destroys the agencies that they rely on, chokes off their capital funding, and then puts tariffs in the way. I was hearing about these fears and anxieties from small business owners throughout my district at town halls this past week. It is time for my Republican colleagues to grow a spine and obstruct these efforts, and recognize that the real problem here is Donald Trump. I yield back.

Mr. TIMMONS. The gentleman from Pennsylvania, the Chairman of the Oversight and Investigation Subcommittee, Mr. Meuser, is now recognized for 5 minutes.

Mr. MEUSER. Thank you, Chairman. Thank you all very much for being here and providing us with this information. Appreciate it.

According to Forbes, the number of publicly traded companies in the U.S. has dropped considerably since 1997. During the Trump years, it was a 50-percent increase. Under the Biden years, there was a decrease, although a slight decrease. Meanwhile, the cost of

going public now exceeds $12 million, pricing out, obviously, small businesses and everyday investors. President Trump, Secretary Bessent, and incoming SEC Chair, Paul Atkins, are working to re-privatize the economy and put capital back in the hands of the American people by leveraging both public and private markets, making it simpler to raise capital so everyday investors can have access to the markets.

Mr. Trotter, Americans rely on closed-end funds for retirement investing, yet SEC staff, a number of years back, limited these funds to investing just 15 percent of assets in private securities unless they are sold only to accredited investors. Do you believe lifting this arbitrary cap safely can expand access for everyday investors to high-growth private companies?

Mr. TROTTER. Yes, I do.

Mr. MEUSER. Okay. What do you think it should be lifted to?

Mr. TROTTER. I think expanding access is a good step.

Mr. MEUSER. I agree. Is this typical for the SEC staff to provide guidance? Again, it was back in the 1990s, but is that something that is typical or do you think should be atypical?

Mr. TROTTER. There are a number of areas where the SEC staff provides its interpretive guidance, and that becomes an important benchmark for private industry in figuring out how to apply either the statute or a rule that the SEC has adopted.

Mr. MEUSER. Okay. Hopefully the new administrator keeps an eye on that. I think he will. Crowdfunding, issuers raising $100,000 or less, provide independently viewed financial statements, current law does not require crowdfunding under $100,000. I plan on introducing the Augmenting Compatibility and Competition by Enabling Service Switching (ACCESS) Act of 2025, which increases that amount to $500,000. I see you are nodding your head. You think that is a good idea?

Mr. TROTTER. I do.

Mr. MEUSER. Ms. Matthews Brackeen, your thoughts?

Ms. MATTHEWS BRACKEEN. No, absolutely. That is one of the kind of biggest barriers to entry on the crowdfunding campaigns is that those independent audits. Small firms do not have the capital to do those each and every year to fundraise.

Mr. MEUSER. Great. Primarily, you think that would be beneficial to small business?

Ms. MATTHEWS BRACKEEN. Yes.

Mr. MEUSER. Great. Thank you. Mr. Case, nice to see you again. Venture capital goes to businesses in large metro areas, far more than rural areas, California, New York, Massachusetts, et cetera. If we made it easier for venture capital funds to operate, for example, by raising the $10 million limit, what qualifies as a small fund, do you think that would help more money reach startups in rural areas?

Mr. CASE. Yes, it would.

Mr. MEUSER. Okay. Good. That sounds easy enough, right? Good on that one as well. Mr. Trotter, back to you. The average cost of going public, $12 million. Do you think expanding the current onramp relief for emerging companies, like requiring 2 years of financial statements instead of 3, would make it easier for more companies to go public?

Mr. TROTTER. Yes, I do. I am strongly supportive of that.

Mr. MEUSER. Okay. We think just making things easier, simpler, less regulations will be beneficial to businesses, to our economy, to overall growth of small businesses and large businesses?

Mr. TROTTER. Yes, all of the above.

Mr. MEUSER. That is very logical and makes a lot of sense. The CFPB is going to go under reform. Many of us do not believe that CFPB has been constructive. We think it has been the opposite of constructive, perhaps destructive. Mr. Trotter, I will go back to you. What are your thoughts on reforms to the CFPB?

Mr. TROTTER. I will have to leave that to others. That is not my area.

Mr. MEUSER. Okay. Not your area. Mr. Newell?

Mr. NEWELL. Sorry, Congressman, it is not my area.

Mr. MEUSER. Okay. Ms. Matthews Brackeen?

Ms. MATTHEWS BRACKEEN. No.

Mr. MEUSER. No? Mr. Case, no comment on CFPB? All right. We got plenty of comments on it, so we can handle minimal comments there. Access to capital during the Biden Administration, these reforms will create a great deal of improvement. Ms. Matthews Brackeen, would you agree with that?

Ms. MATTHEWS BRACKEEN. I would prefer not to comment on that.

Mr. MEUSER. Okay. Understood, but what we just discussed, of course, would be reforms, improvements to what has existed before, so that would create access to capital, so that is really where I was going with that. I yield back, Mr. Chairman.

Mr. TIMMONS. Thank you. The gentlewoman from California, Mrs. Kim, is now recognized for 5 minutes.

Mrs. KIM. Thank you, Chairman. I want to thank our witnesses for testifying and appearing before our committee today. You have heard that small businesses are the backbone of our economy, and it is especially important for the constituents and the businesses that I represent in Orange County, Southern California. That is why last Congress, I introduced the Improving Access to Small Business Information Act with my colleague, Congressman Josh Gottheimer from New Jersey. That bill would ensure that the process for collecting public feedback from small businesses is streamlined and more efficient at SEC.

Let me ask you a question, Mr. Newell. During your tenure at Sutro, what struggles did you identify that small companies had in getting the SEC to take their feedback into account?

Mr. NEWELL. Thank you, Congresswoman, for your question. I think there are a number of ways in which we as a small company interact with the SEC, from the initial stages of doing Reg D offerings through public offering in and of itself. In a public offering process, you do your level best to try to write your registration statement so that it passes muster quickly and that you can raise the capital as quickly as possible. I will say that the regulatory response time frames are excessively long, and the public capital markets do not wait for anyone. If money is available, you take it, and if you take too long going through a registration process, money that might have been available may no longer be there. We are just a small cog as a small company in the wheel, and we are

all treated the same, whether it is a public offering of General Motors or a public offering of Sutro Bio, the same rules and regulations apply. I do not think people understand their differences, and those differences need to be taken into consideration.

Mrs. KIM. Thanks for that. I think the goal is if we want our businesses, especially small businesses, to grow and become more public, then we need to ensure that the SEC has no difficulty in hearing back or feedback from the businesses. Let me move on.

It is my fear that when venture capital firms engage in pattern matching, I think we discussed that probably before, but they overlook talented entrepreneurs who do not fit the typical mold that have innovative ideas. Ms. Matthews Brackeen, how often are you seeing these nontraditional founders overlooked by venture capital firms because the founders do not do the pattern match for stereotypical factors for success?

Ms. MATTHEWS BRACKEEN. Yes. People have a tendency to invest in people that they know, like, and trust, and sometimes that is in the region that they live in. According to the Angel Capital Association, women and their angel portfolios tend to invest at a 70 percent rate in other women, right? If we apply that to other markets, if we are able to diversify the investors that are investing around the country, I think we will see less pattern matching.

Mrs. KIM. How can we adjust our capital market regulation to incentivize more venture capital investment in very diverse founders?

Ms. MATTHEWS BRACKEEN. I think it is still important to make certain that we are funding and having programs like SSBCI. I know that has helped our State incredibly in Ohio, and those regulations and those have really helped to grow in certain areas of the State that would have never had any venture capital at all.

Mrs. KIM. Your firm, Lightship Capital, how have you capitalized or utilized the enrichment programming to mentor those founders?

Ms. MATTHEWS BRACKEEN. We offer programming in 16 cities around the country, and we help companies to grow the amount of revenue that they are attracting, and, oh my gosh, $500 million in capital has been attracted to our portfolio of companies.

Mrs. KIM. Thank you. Since COVID–19, we have seen a decline of number of companies going public because economic conditions have been unstable throughout the Biden-Harris Administration. I want to ask the question to Mr. Case. Do you believe that the long-term stable economic growth that we are seeing under President Trump, who is aiming to deliver, will result in increased initial public offerings?

Mr. CASE. I continue to stay out of politics and focus on policy. That has been my approach for 40 years and will continue, but I do think figuring out ways to open up the IPO market to more companies so when they have a need for capital, if it is not available in the private market, they have a path to go public makes sense. Some of the things that this committee is considering, I think, are steps in the right direction.

Mrs. KIM. Thank you. Thank you, all the witnesses, for answering.

Mr. TIMMONS. The gentleman from Florida, Mr. Donalds, is now recognized for 5 minutes.

Mr. DONALDS. Thank you, Chairman. Witnesses, thanks for being here. Really appreciate it. As we are having this discussion on capital flow in the United States and really trying to find ways to open up that flow, for people who traditionally are not your accredited investor, I think it is important to take a step back and realize something. When we made this rule decades ago, it was the understanding that this was to help protect your small net worth retail investor; but if you look at just technology over the last generation and a half, two generations, every American is walking around with a supercomputer in their pocket.

Your average American has more information about companies and more information about markets than they ever could have possibly had at any other point in American history. Yet we still have, in my view, a very archaic rule around what we would designate to be an accredited investor to protect the American people from the hardships of capital markets, and, listen, capital markets are not a guarantee. They are never a guarantee, but they do provide real opportunities for people to build wealth in this country, especially as asset ownership continues to be the driver of how people build wealth. Mr. Newell, how detrimental has the current definition of "accredited investor" been to capital formation?

Mr. NEWELL. There is no question that if you limit the number of people who can provide capital to a business, you are making it much more difficult for that business to grow and thrive and survive. I am in favor of a much broader statement of accredited investor that really empowers individuals, as you have suggested, to be making their own investment decisions, and that is not what the current standard allows.

Mr. DONALDS. What would be the economic benefit of eliminating the accredited investor rule altogether?

Mr. NEWELL. Again, it democratizes, if you will, the opportunity to invest in earlier-stage companies and technologies, ones where you may have some acute insights as to why that technology is going to be beneficial, not only to the company, but to growing in the community in terms of jobs and also growing your own personal wealth. If you are not satisfying the current accredited investor decision, you are locked out of that investment opportunity.

Mr. DONALDS. Mr. Trotter, what are the regulatory restrictions that have caused the recent shift away from public offerings and toward private markets?

Mr. TROTTER. There are many, and many of them are long-term issues, but, again, I would say that the success of the JOBS Act and 13 years of experience with the IPO onramp can and should be extended, and you can significantly increase, expand the category of emerging growth companies, and help IPO activity.

Mr. DONALDS. What are the factors contributing to the rise of costs associated with going public?

Mr. TROTTER. The disproportionate regulatory burden on smaller companies trying to go public is definitely a factor. The JOBS Act was an attempt to address that. I think it has made a meaningful difference, but it could make a bigger difference.

Mr. DONALDS. Mr. Case, what are some of the unique challenges entrepreneurs outside of the coastal venture capital hubs? What are they really facing when it comes to capital formation? Ms. Mat-

thews Brackeen, if we have time, I would love for you to answer the same question.

Mr. CASE. As we have been talking about today, there are big challenges. If you have an idea and you do not have capital yourself, you do not necessarily have friends and family that have capital to back you, many people will never start that company. That company could have been the next big idea that could have changed the world and created a lot of jobs and driven a lot of economic growth. Access to capital, exactly what this committee is focused on, is critically important in making it easier for entrepreneurs who have ideas to take those into the market, make it easier for them to raise capital, make it easier for the venture funds, particularly regional venture funds, to raise capital. All will contribute to trying to level the playing field and create more opportunity for more people in more places.

Mr. DONALDS. Ms. Matthews Brackeen.

Ms. MATTHEWS BRACKEEN. Yes, I would say we are seeing more cities grow. In your great State of Florida, Miami is seeing a lot of growth right now in the venture capital space, and that is because the dollars came there kind of right around COVID and sometimes in really a little bit before that. You have dollars there, you have had the universities double down on computer science so that the talent is there, and we have a very diverse community of people from Latin and South America who have come and helped to grow all of those companies.

Mr. DONALDS. Thank you for mentioning that. I have been talking a lot the last couple of weeks about Florida, in a lot of respects becoming the financial capital of not just the United States, but of the world, with a lot of the, whether it is venture, digital assets, et cetera. The one thing I would be remiss in not pointing out is that it is going to be critical for the future of our economy and our Nation that people who are at the bottom end of the economic ladder have real opportunities to invest in some of these fledgling companies. Imagine if a local waiter was able to invest in Snapchat, and Snapchat became Snapchat.

Chairman HILL [presiding]. The gentleman's time has expired.

Mr. DONALDS. I yield.

Chairman HILL. I thank the gentleman from Florida. The gentleman from New York is recognized. Mr. Garbarino is the author of a bill to exclude qualified institutional buyers and qualified accredited investors from the record holder account for mandatory registration, a modestly named bill and the Small Entrepreneurs Empowerment and Development, the SEED, Act. Mr. Garbarino, you are recognized for 5 minutes.

Mr. GARBARINO. Thank you, Mr. Chairman. Thank you for that wonderful shout-out about these two wonderful bills that I am lucky to sponsor. Thank you all to the witnesses for being here today.

For more than 80 years, closed-end funds have provided nearly 4 million investors, including many retirees, with steady diversified income. As registered funds, closed-end funds are subject to rigorous safeguards such as protections related to valuation, disclosure, and conflicts of interest. Thanks to Chair Wagner's leadership, the bipartisan Increasing Investor Opportunities Act would

allow retail investors to easily access a more diversified pool of private investments through strong protections of a registered fund. Mr. Trotter, do you believe that closed-end funds could be a viable option for retail investors looking to increase access to private investments?

Mr. TROTTER. Yes, I believe they could.

Mr. GARBARINO. Why?

Mr. TROTTER. I would support more open access to retail investors generally on different products.

Mr. GARBARINO. Thank you. As fewer companies go public, there have become fewer investment opportunities for most Americans. In recent memory, alternative investments have shown value by facilitating capital formation and helping provide more uniform investment returns for individual investors. I asked this exact same question at a Cap Market Subcommittee hearing last month, and I am going to ask it again because I think it is important to get it on record. Mr. Case, can you speak to what role alternative investments can play in capital formation?

Mr. CASE. First of all, on a personal note, I agree with the nature of your question. When I took my company, America Online, public in 1992, we raised $10 million, and the value of the company that day was $70 million. That is why most companies were able to access the growth capital they needed because of the growth of the capital markets and more late-stage capital being available as well as some of the challenges of going public and being public. That does not happen anymore, and so, as a result, the people who saw my company go from $70 million in value, at its peak, $160 billion, those were retail investors who got the benefit of it. They have been deprived of that for most of the innovation companies that exist today, so figuring out ways to get companies on that path to being a public company, if they choose to. Some prefer staying public, staying private because they can take a longer-term strategy, and some have access to that late-stage growth capital, but the ones who want to go public, we need to make it just a little bit easier for them to do it, a little less burdensome, a little less costly.

Mr. GARBARINO. That was my next question. You would agree that regulatory modernization is necessary to provide greater options to qualified and accredited investors than just the public?

Mr. CASE. Absolutely.

Mr. GARBARINO. Wonderful. Thank you. Speaking of a company's decision of whether to go public or stay private, it is often one of the most significant inflection points in a company's growth. In the case when companies deem that costs associated with going public are too high and that regulatory burdens of staying public are not worth it, we should ensure that there is a private market framework that supports companies throughout their lifecycle. I have a bill, as the chairman mentioned, that would exclude qualified institutional buyers and institutional credit investors from the mandatory registration threshold of 2,000 or more holders of records. Mr. Trotter, should these institutional investors be counted toward this threshold, and if not, can you explain to us the benefits that their exclusion could have in a company's ability to remain private?

Mr. TROTTER. I support your bill. I believe they should not be. I think it is an important step in allowing a private company to

maintain flexibility on whether and when it becomes a public company, and your bill would be an important step toward that.

Mr. GARBARINO. I think so as well, so I hope we have a markup soon. I hope it passes unanimously. My last question as I have some time left, small businesses and entrepreneurs experienced significant losses during the first half of the 2020s, which are beyond their control. Microlending has a demonstrated track record around the world for providing much-needed capital to entrepreneurs, often women and minorities in underbanked communities. This, in turn, helps them start and grow their businesses. The proposed SEED Act includes micro-offering exemption that allows companies to raise up to $250,000 without any disclosure requirements, but subject to antifraud and bad actor disqualifications. Ms. Matthews Brackeen, can you explain how small businesses would benefit from this exemption?

Ms. MATTHEWS BRACKEEN. Today, many people across the country do not have access to friends and family rounds. If you do not come from a wealthy family, you do not have someone to help you to get started. While I do not come from a wealthy family, my father helped me to start my first business with a $10,000 loan, and so being able to access up to $250,000 would allow us to grow companies across the country.

Mr. GARBARINO. Wonderful. I appreciate that, and I think you are absolutely right, and we should pass the SEED Act as quickly as possible. With that, Mr. Chairman, I yield back.

Chairman HILL. The gentleman yields back. The gentleman from Wisconsin, Mr. Fitzgerald, is recognized for 5 minutes.

Mr. FITZGERALD. Thank you, Mr. Chair, and thanks to the witnesses for hanging in there. I know it has been kind of a long morning. Mr. Newell, you have seen firsthand the regulatory burdens, and I know you spoke about this earlier. Do the compliance costs and disclosure requirements push companies to seek alternative paths, like mergers, private funding, or even overseas markets?

Mr. NEWELL. The compliance costs of going public are substantial. I think we have talked about it today. I know we spent about $5 million in accounting just to satisfy the accounting requirements to go public. When you know that money is going to go out of pocket with no real benefit to you and your business, you naturally think about alternative strategies to finance the company and move it forward, and the ones that you have suggested are things that happen. There is a process called a dual track process that exists where oftentimes companies will look to either raise capital through an initial public offering or, at the same time, look to sell or merge their company into another company, and that is because they do not necessarily want the burdensome consequences of going public and may be able to actually continue their journey as a company, but in a different fashion.

Mr. FITZGERALD. Do you think if Congress extended kind of the onramp period, what changes would be necessary to ensure kind of that the companies themselves not only go public, but also kind of thrive in the public markets long term?

Mr. NEWELL. Yes. Thank you, Congressman, for that question. I think it is important that we have ways in which not only compa-

nies avoid excess of costs that really do not contribute to the growth of the company and are not necessary for investor protections, but then look at ways in which we can expand the access to capital to those companies. Oftentimes, just because you go public, it does not mean you have all the capital in the world that you need, and so you continually have to look for new sources of capital. That is certainly very true in our biotechnology industry. You need to keep going back and finding new investors, and that means any limitation on who can invest, the amounts they can invest, all of that is a barrier to your being able to continue and succeed with your business.

Mr. FITZGERALD. Very good. Thank you. Mr. Case, expanding and diversifying the pool of individuals who qualify as accredited investors, as we know, is essential to unlocking new funding opportunities, especially for entrepreneurs, right, and founders in really small companies across the whole Nation. Some of those current regulations as been discussed this morning and this afternoon still pose significant challenges. I mean, that is why we are here today, I think. How do current regulations around accredited investors create barriers for both the investors and the entrepreneurs. I know you have discussed this again earlier, but what are some of the reforms that would help expand access to capital while maintaining the protections that investors are looking for?

Mr. CASE. Obviously, we have to strike the right balance, giving people the opportunity to invest, but in a way that is safe and makes sense. It goes back to what I said before and probably should have emphasized it more earlier. There has sort of been a structural change in the capital markets in the last several decades. In my era, when companies like my company, AOL, was going public, but also when Microsoft was going public and Amazon was going public, and many other companies were going public in the 1990s, they generally raised capital much earlier in the cycle. For example, the valuations at the time were in the few hundred-million-dollar range.

Now nobody goes public until there are many billions of dollars of valuation. What that essentially means is those retail investors who believed in Microsoft or believed in Amazon and were able to get in kind of on the ground floor, not at the first venture capital level, but kind of on the ground floor, were able to see the benefit of that, and it benefited their families in terms of the appreciation of wealth. That has largely been taken away because companies are not going public until it is much later, and that is not entirely because of regulation.

Some companies choose not to go public because they want to take a longer-term attitude, but most of it is because they have access to capital now to grow without going public, which is different than 3 decades ago, and they are just worried about the costs and complexities of being public. As a result, the individual investors are being deprived of the opportunity to participate in some of that upside, modifying the accredited investor rule so they can invest in these high growth companies when they are private would be a step in the right direction.

Mr. FITZGERALD. Very good. Thank you very much. I yield back.

Chairman HILL. The gentleman yields back. The gentleman from Nebraska, the Chairman of our Housing and Insurance Committee, Mr. Flood. Let me just yield to Mr. Flood for 5 minutes.

Mr. FLOOD. Thank you, Mr. Chairman. This hearing topic is near and dear to my heart. How to drive access to capital outside of Silicon Valley and outside of the cities on the coast is something I have worked on since I entered public service in partnership with great State groups, like Invest Nebraska. One of the elements that makes Silicon Valley the pinnacle hub of entrepreneurial activity and investment in the country is networks. If you are an aspiring entrepreneur with an idea for a new project, you want to be in the same place as the venture capital firms that could serve as a funding source for you and the talented software engineers that could help you build your project. In other words, a good hub provides both the capital and the labor to make that dream a possibility. The challenge for communities that are not already in that kind of a hub is, to a certain degree, the name of the game. You can have great schools that are graduating talented young people, but if there is not the capital available near them, in many cases, they will leave town and go to a hub that has it all in the same place.

What we see is enormous value created in these hubs, vast sums of wealth and opportunity driven in part by the best and brightest young people that have left behind smaller communities where they grew up. Lots of times, these hub communities rebel against the very growth activity that they enjoy. In some parts of the country, gentrification has become a bad word used to reference out-of-towners who have driven up the cost of goods and housing.

The great irony is that there are communities across the country yearning for a fraction of the kind of investment in economic activity that a hub like San Francisco enjoys. In the past, I have been interested in how to build one of these hubs in Nebraska. Folks like Brad Feld and Ian Hathaway's, "The Startup Community Way, Evolving an Entrepreneurial Ecosystem," serve as a potential blueprint on how to get that done, and I have read them with great interest.

I think there is an even bigger picture question underlying the entrepreneurial hub concept: at what point is a geographic hub no longer necessary? Technology has broken down many of the barriers that makes geography such a strong barrier between people. You can hop on a plane to San Francisco and be there within a day. You can communicate with people all across the country and world easily through messaging and video applications.

This question is really for all witnesses. I would like to hear from all of you. I would be curious to hear from you regarding your thoughts on this topic. Is there a point where these entrepreneurial ecosystems would no longer be necessary at all or they would not necessarily need to be located in one geographic place? We will start with you, Mr. Case.

Mr. CASE. I think we certainly want to build out dozens and dozens of ecosystems, and there is still something even in a world where there is more virtual, more remote, to having clustering of talent. It is just unfortunate that the clustering is only happening in places like San Francisco and New York. There is progress in places like Lincoln and Omaha, and even an effort around creating

more of a regional hub, so a couple of mid-sized cities can work together to create a broader entrepreneurial zone. I think that is a step in the right direction.

Mr. FLOOD. I would add that Lincoln, Nebraska, which is the largest city in my district, has seen some success here, but building upon that success is really a question.

Mr. NEWELL. The thing that I learned in the pandemic was that it was difficult to get the richness of ideas by remote linking to people. There is something valuable about being able to meet a friend at a coffee shop and talk about an idea with them that you cannot replace with a Zoom meeting. Now, Zoom meetings can be necessary supplements to it, but I do think the success of Silicon Valley, Boston, San Diego, other communities has to do with the proximity of people, and that is an important thing that we need to remember. We lost it in the pandemic, and thank God, it is coming back.

Ms. MATTHEWS BRACKEEN. The critical mass is necessary. I would say that 10 years ago when I got into the tech community, Steve brought the bus through Cincinnati, At that point our network really exploded, and we understood what the playbook looked like. I think it is necessary as we build out innovation hubs, as you are saying, in Nebraska. We are doing that in Ohio with innovation hubs in our 3C cities, and the critical mass and us being next to each other is important.

Mr. FLOOD. Thank you.

Mr. TROTTER. I agree with all these comments. You are never going to replace face-to-face interactions, but I also think that technology changes things and makes it more efficient.

Ms. SENN. Yes. I am excited. We have Innovate Alabama much like Invest Nebraska, and our State has innovation hubs across the State and we reach all geographic regions of our State. I think it is critically important we have economic incentives and non-economic incentives, and having people collaborate is a key to prospering our Alabamians. Our community wants to invest in Alabama. We have attractive geographic incentives, the beaches, the coast, so we highlight that, and we are excited about bringing entrepreneurs into the State. I think you guys are in a unique position to be able to go back to your States and help prosper them through those economic hubs. They are a big success in Alabama.

Mr. FLOOD. I would be remiss if I did not also recognize Little Rock. Thanks to our chairman and his efforts at innovation and growing jobs and entrepreneurial activity. With that, I yield back.

Chairman HILL. The gentleman yields back. The chair recognizes from New York, Mr. Lawler, the vice chair for communications of the committee and also the author of the Helping Angels Lead Our Startups, HALOS, Act. Mr. Lawler, you are recognized for 5 minutes.

Mr. LAWLER. Thank you, Mr. Chairman. Small businesses are now facing these turbulent economic times, having to contend with many regulations that the previous administration put into place, which could stifle economic growth, prevent entrepreneurs from retrieving their full potential, and frankly, prevent folks from living out their American dream. Entrepreneurs and small businesses drive the American economy. In 2019, the Small Business Adminis-

tration calculated that close to 44 percent of our GDP was a result of small businesses. We should be doing everything we can to promote investment, promote entrepreneurship, and foster small business growth, whether it be cutting red tape, providing additional access to capital or simply getting government out of the way of entrepreneurship. That is why I introduced the Helping Angels Lead Our Startups Act or the HALOS Act, last Congress, and reintroduced it again.

The HALOS Act will promote access to investment capital for small companies and ensure that startups can continue to generate interest and connect with investors. It will do this by ensuring that demo days, pitch competitions, and community economic development events where there is no specific investment offering are not considered general solicitation under Reg D. In doing so, companies will be able to engage with a wider audience of investors and spread word of the products and services that they can offer to help develop a thriving and diverse economy. In addition to driving economic force, angel investors provide by supporting tens of thousands of small companies per year, long-term impact can be seen as companies, such as Amazon, Costco, Facebook, Google, and Starbucks, were all initially funded by angel investors.

We have seen many successes since the passing of the bipartisan JOBS Act over a decade ago, which helped reduce barriers to investment. By alleviating burdens on businesses, cutting red tape, and making capital raising in our public markets easier and less costly for emerging companies, not only will we be clearing the way for businesses to expand and develop, but we will also be helping to build a more diverse and inclusive universe of entrepreneurs and founders by expanding opportunities to underrepresented entrepreneurs and communities facing capital formation challenges. The HALOS Act will simply allow folks to get eyes on their businesses and potentially find the vital investor they need to succeed. Think "Shark Tank." I look forward to reintroducing the HALOS Act, which passed out of this committee last year and to seeing it signed into law.

Mr. Case, in 2020, the SEC adopted amendments to Reg D to allow for certain demo day communications to be exempt from being considered general solicitation or general advertising. The amendment also defined "angel investor group" for the purpose of Federal securities laws. These changes were made to support startups discussing their products and business plans demo day events without it being considered an initial investment offering. How critical are the changes made in 2020 to capital formation, and should Congress solidify these changes by codifying them into law?

Mr. CASE. I support the principles you mentioned. We need to figure out more ways for entrepreneurs who have ideas to talk about those ideas, including demo days and other gatherings of startups, educating people about the potential of a particular market, and modifying some of the rules or perhaps the legislation you are proposing, the bill you are proposing, that would make it easier for angel investors, make it easier for entrepreneurs, would be a step in the right direction.

Mr. LAWLER. In your experience, startups generally hesitate to participate in demo days, in large measure due to fears of violating securities laws. Do you see that codifying these exemptions would help give entrepreneurs some more confidence in going out and seeking the funding that they need to grow their business?

Mr. CASE. Yes, I believe it would.

Mr. LAWLER. Okay. Would anybody else care to comment?

Ms. SENN. The States certainly support—I am sorry. Go ahead.

Mr. NEWELL. Go ahead.

Ms. SENN. Those demo days and pitches, we do it all the time in Alabama, but State securities regulators, since we are seeing these operations going on across our State, we just want to be sure that we do not have, and we see it all the time. You all, I mean, prosecute these cases where you have a startup that is not very business savvy, they are misusing the funds and they are not doing what they are saying. They are making misrepresentations. Knowing that they are out there, it is important to sort of help prevent some of that and keep these businesses. Like I said, build a good foundation, but the pitches and the demo days are very successful in Alabama.

Mr. NEWELL. I think it is important that you spread the message of what you are doing, why it is important, and why it is going to be a valuable investment. The more that you can allow that to happen, the better it will be for the country.

Mr. LAWLER. Thank you, Mr. Chairman, I yield back.

Chairman HILL. The gentleman yields back. The gentleman from Tennessee, Mr. Ogles, is recognized for 5 minutes.

Mr. OGLES. Thank you, Mr. Chairman. Mr. Trotter, I want to revisit Mr. Garbarino's conversation about the closed-end funds and give you a little more opportunity there, but millions of Americans, including many in Middle Tennessee, depend on closed-end funds (CEFs) as a critical source of retirement savings and investment opportunities. We are talking about expanding access to capital. CEFs can be a significant force multiplier in helping our fellow citizens achieve the American dream, as you mentioned, Mr. Case. In 2023, total closed-end funds, CEF assets were $544 billion. Traditional CEFs had total assets of roughly $250 billion. Unlisted CEFs, including interval funds, tender offer funds, and business development companies, had total assets of $77 billion, $60 billion and $159 billion, respectively.

Unfortunately, the SEC maintains that a closed-end fund should hold no more than 15 percent of its asset and private funds, and that if a closed-end fund exceeds this amount, the CEF should offer its share to accredited investors, which, as many of my colleagues have noted, is in desperate need of definition upgrade. In the case of CEFs, candidly, there are few investment vehicles that have more robust investor protections, including investment advisors, directors, extensive disclosures, reporting requirements, et cetera. Mr. Trotter, in your view, given these protections, is it a worthwhile tradeoff to maintain the SEC staff position, limiting private fund investments to 15 percent of a CEF's assets? Why or why not?

Mr. TROTTER. I think 15 percent is a little arbitrary. It is a staff position. I think it makes sense to broaden that.

Mr. OGLES. Well, and I think there is the opportunity when you have a fund, they can analyze their own risk protocols and tolerance, quite frankly. It does make sense to allow CEFs to invest what they think is basically how they should invest in private securities, creating arbitrary anti-free market limitation, crowds out the market, needlessly precludes retail investors from critical opportunities.

I am grateful to the gentlewoman from Missouri, the Chairwoman of the Capital Markets Subcommittee for her legislation, the Increasing Investor Opportunities Act, and look forward to working with her on that one. The current definition of "accredited investor" limits private market investments to those deemed sophisticated. Mr. Stutzman's bill, the Investment Opportunity Expansion Act, would expand the accredited investor definition to include individuals who invest 10 percent or less of either their net assets or annual income, whichever is greater, in a private offering.

Mr. Case, can you flesh out a little bit for me if the opportunities that an investor would have had in the early days when you were launching AOL versus the regulatory regime that kind of has stymied those opportunities and limits the access to that American Dream? The returns that you saw under your tenure were phenomenal, of course, right, and not every investment is going to have that, but again, let the free market decide, if you will.

Mr. CASE. Yes. As I mentioned earlier, in the 80s and 90s, when an asset class was less developed, there was less of it. It was harder to get, and also, once you got to a certain stage, you had to go public in order to access additional capital. Because of the growth of capital markets and venture capital and later-stage growth, companies can stay private longer, and many choose to, and that is totally fine. As I said earlier, it has an unintended consequence of depriving individual investors, retail investors, of the ability to invest in some of these companies when they are up and running, whether it be AOL or Uber or Amazon or other companies. You might have been a customer of one of those companies, believed in that company, but you did not have the ability to invest until much, much later when they go public, when they are worth $10 billion or $20 billion or more.

Figuring out ways to allow people to invest in those companies by modifying the accredited investor rules would open up that market to other investors who could then participate in some of the upside of some of these companies. You note there are obviously risks associated with that so you need to figure out how to strike the right balance, but it does feel like it is time to take a fresh look.

Mr. OGLES. Yes, sir. Well, and then, Mr. Newell, would an expanded definition of "accredited investor" have been able to help you as you started your Sutro Biopharma company?

Mr. NEWELL. Absolutely. When the company was first started in 2003, it was really friends and family. Venture capital did not come in for a couple of years, so it was really important to have those angel investors around the table, and the more you have, the more successful you are likely to be with your business.

Mr. OGLES. Yes, sir. Thank you, and, Mr. Chairman, I think the note here is that obviously we proceed responsibly and with caution, but there are missed opportunities for the retail investor in

this sector to win and achieve that American Dream. With that, Mr. Chairman, I thank you and yield back.

Chairman HILL. The gentleman yields back. The gentlewoman from Michigan, the Chair of the Republican Conference, Mrs. McClain, is recognized for 5 minutes.

Mrs. MCCLAIN. I will try and be quick since we have votes, Mr. Chairman. Thank you. I am going to piggyback off what Congressman Ogles was talking about. Ms. Matthews Brackeen, what variables other than wealth and income do you think we should consider when expanding the accredited investor definition and look at it from both the investor end and the entrepreneurial end?

Ms. MATTHEWS BRACKEEN. I would say there are probably two areas that you could look at. Experience would be one of them.

Mrs. MCCLAIN. Experience in investing. Have you had 5 years of experience, is that what you are saying?

Ms. MATTHEWS BRACKEEN. Not necessarily in investing, but really in different markets. There could be someone who studied chemistry or biology in college and deeply understands biotech. They have experience in that space, so experience and education could be another way to expand that.

Mrs. MCCLAIN. I do not want to put words in your mouth, but I want to make sure I understand, experience maybe in the sector.

Ms. MATTHEWS BRACKEEN. In the sector. Thank you.

Mrs. MCCLAIN. Anything else?

Ms. MATTHEWS BRACKEEN. I would not want to limit it any more than it already is. I think that the point of this is to expand it so that capital is not constricted as much as it is right now.

Mrs. MCCLAIN. I agree. Mr. Case, I would like to hear your opinion on that as well.

Mr. CASE. I agree that sector expertise helps, also having some investor expertise, understanding the complexities of these securities and what happens with follow-on rounds, I think, is important. A number of the proposals that require some level of education, maybe passing some kind of test would be a step in that right direction.

Mrs. MCCLAIN. I am sorry. Passing some kind of test, did you say?

Mr. CASE. Some way to make sure that people making these investments understand not just the opportunity, but how the structures work and what some of the risks are.

Mrs. MCCLAIN. Yes.

Mr. CASE. Many different ways to do that, but having that as part of it would, I think, be important.

Mrs. MCCLAIN. Very helpful. Thank you. Mr. Trotter, we have heard from numerous small business owners in Michigan, my State, who found working with the SEC, me being one of them, over the past years to be extremely frustrating, expensive, complicated, especially the past 4 years. What I am trying to figure out is, I had my own financial services company at one point. We had more people in the compliance department than we had in the processing department, than we had in the client service department, right? We were so worried about making a mistake that we spent a lot of resources doing that to make sure that we were compliant. What I am trying to figure out is, can you discuss ways to

actually reduce friction, roadblock in the registration process or from the SEC? I mean, I think it was started with good motive, but just like everything, I think we are a long way from home.

Mr. TROTTER. We have talked about a lot of those ideas. You have sponsored a bill that would be very helpful in that regard. It does not necessarily affect every single company going public, but many companies going public will run into a problem with their auditor independence. There are private company auditor independence rules that apply to pre-IPO companies, and then the PCAOB and SEC rules are much more rigorous and demanding, and your bill would be very helpful for companies like that.

Mrs. MCCLAIN. I just want to make sure I get you on record. You would be in support of that. You think that is a good idea.

Mr. TROTTER. Yes, it is a great idea.

Mrs. MCCLAIN. Thank you. No, I mean, it is important, and I think we all have good intentions when we put these regulatory bodies together, right? We want to provide guardrails, but at some point they just grow so big and they get so overwhelming that they actually begin to do the opposite, and they have the opposite effect for both the companies and the investors that we have talked about. With that, Mr. Chairman, we have votes. I am going to yield back. Thank you all for your time.

Chairman HILL. The gentlewoman yields back. Pursuant to the previous order, the chair declares the committee in recess, subject to the call of the chair. We will reconvene immediately following the last vote in the series of floor votes, so the committee stands in recess.

[Recess.]

Mr. DOWNING [presiding]. The committee will reconvene and come to order following our recess.

The gentlewoman from Texas, Ms. De La Cruz, is now recognized for 5 minutes.

Ms. De La Cruz. Thank you so much, Chairman, and thank you to all the witnesses for being here. I do appreciate it.

Texas is home to over 3.3 million small businesses and is a destination for businesses of all sizes. My district is all the way down in deep South Texas, a very rural area, hard to raise capital, but very entrepreneurial. In fact, I myself am a small business owner and have been blessed to open several different types of small businesses. I understand how challenging it can be, especially in a minority community, like mine is, being a female and then opening small businesses with all the challenges. My question is directed to Ms. Matthews Brackeen. What are some of the issues startups face when they are located in more rural districts, like mine?

Ms. MATTHEWS BRACKEEN. Good afternoon, and thank you, Congresswoman. I would say it depends on kind of the small rural region. Is it covered in the county? Does that county or city support economic development work? Is there educational programming available? I think there are a lot of different things that people need beyond just capital. If your region does not have kind of economic development work happening within it, you sometimes do not know how to access those things, so what is that center point within your community that can help you to grow and thrive as a business? Is that the SBA? Is that a Service Corps of Retired Ex-

ecutives (SCORE) mentor? Is that just someone who has set up a local innovation hub? All of those things are necessary to help a company to grow.

Ms. De La Cruz. Thank you so much, and you are "Mrs." I am sorry.

Ms. MATTHEWS BRACKEEN. That is Okay. We are all moving fast.

Ms. De La Cruz. We are moving fast here. Thank you so much. I appreciate it, and you are absolutely right. As I said, I have been blessed to be a part of many different types of businesses, opening them by myself, and sometimes you just do not know where to start. If you are not in a community that has a small business association or a university that has an SBA area that can help you, then you can feel quite lost and overwhelmed, right? As a small business owner myself, like I said, sometimes with those challenges, especially the capital challenge, they often close. What is the statistic? Do you know something like 50 percent of small business openings close within the first 3 years?

Ms. MATTHEWS BRACKEEN. I am not certain of the small business number, but I know for tech companies, it is 8 fail out of 10 generally, right? That number is really high at the early kind of preseed seed stage. It is later where they start to grow, but I do not know that small business number.

Ms. De La Cruz. Eight out of 10 is very high. What do you think some of the steps for Congress or that Congress could take in order to assist?

Ms. MATTHEWS BRACKEEN. I would say more support around technical assistance for companies. I would say there is not really a nationwide push behind helping with technical assistance for technology companies. The Small Business Administration is still supporting, in general, main street businesses. That could be through other organizations, like ours, where we support through kind of economic development work. We are in seven cities in the State of Ohio and nine cities elsewhere in the country, so that is one area. Another is just making it easier for capital to flow throughout all of the States. SSBCI has been brought up several times today. I would say continuing that program is incredibly important. It has helped to capitalize lots of companies that were started in garages and labs across the country.

Ms. De La Cruz. Thank you. Mr. Trotter, how can we make public markets more attractive?

Mr. TROTTER. Well, continue with the success of the JOBS Act. In particular, make it easier to go public, and then once you are public, make it easier to be a new public company and entice companies that are considering an IPO by lowering the cost of being a new public company for a meaningful period of time after the IPO. Those would all be helpful steps, and you can do all of those by expanding the definition of emerging growth company.

Ms. De La Cruz. Thank you. I yield back.

Mr. DOWNING. The gentlewoman yields. The gentleman from Iowa, Mr. Nunn, is now recognized for 5 minutes.

Mr. NUNN. Thank you, Chairman Downing. It is always good to have an Air Force guy as your wingman up in the seat there. We appreciate it, certainly, as a combat veteran ourselves.

Let me begin by iterating the U.S. capital markets remain the envy of the entire world. We have a lot of good opportunity here. Our markets provide unrivaled liquidity. They have transparency, competition, rule of law, which help millions of Americans, including millions right in my home State of Iowa. The challenge, however, is despite our Nation's financial strength, access to capital remains overly concentrated, particularly in the East and West. I see my colleague from Alabama nodding her head. This is the reality. Last year alone, 33,000 new small businesses launched in Iowa, but our markets still fail to reflect its growth. Imagine the economic power if we were able to bring more of this capital to the heart of the heartland.

Now, Ms. Matthews Brackeen, you are an Ohio gal. You recognize this firsthand. I think that you know that we struggle with our traditional financial centers when it comes to raising that initial funding. Limited availability of initial capital outside of major investment hubs reinforces a pattern, matching a tendency for fund startups to resemble what we have seen in the past, which makes it even more difficult for a Central America opportunity to get outside of Boston, New York, Miami, or Silicon Valley, all great places, but we have an opportunity right here. You have helped lead some real successful examples of what securing capital in the Midwest might look at, some of the key factors that we should focus on to increase and lower barriers for small companies. Tell me how Ohio and Iowa could better fit into this model.

Ms. MATTHEWS BRACKEEN. I think we need to look a little bit at the model that you see on the coast, but we also need to fit it to ourselves, right? I would say in the Midwest, we are more thoughtful about the way that we spend money. First and foremost, we make certain that companies are generating revenue, that they can see growth, and we can really build our own models. Earlier today, I talked about Ohio Third Frontier and JobsOhio. Those are the ways that we are capitalizing our businesses and putting Ohio companies first. I think Iowa could definitely do the same thing and you are seeing that across the country, and those things work quite well.

Mr. NUNN. I could not agree with you more, and I think you are right. There is a model we can use on both sides of this. As we look at the lack of small businesses in our public markets now, they are deprived of the investing opportunities to invest in high-growth companies, primarily because they do not have the same opportunity. Have you seen opportunities for businesses in Ohio or other places to be able to capitalize on those high return yields?

Ms. MATTHEWS BRACKEEN. That is a question that I do not think I could answer, but, Joel, do you want to take that one?

Mr. NUNN. All right. Mr. Trotter, she just teed it up for you, brother.

Mr. TROTTER. I do not have an easy answer to that question. I mean, my emphasis, again, is on improving capital formation by principally expanding the category of emerging growth company and expanding the well-known seasoned issuer definition. I think all of the proposals before you are steps in the right direction. They all help facilitate capital formation and take down some of the bar-

riers that are unnaturally inhibiting steps to grow capital and raise capital and help businesses grow.

Mr. NUNN. Mr. Trotter, on that example, I will take you one step further. The JOBS Act created the EGC designation, which is an example that grants certain smaller companies relief from specific disclosure compliance requirements for a limited period and helps ease their transition effectively into the public market. I have a bill that would allow EGCs to present 2 years of audit financial statement, rather than what is currently out there right now, 3 in both the IPO and spinoff transaction. Is this an example of something that could help us get into the public market space, and if so, how?

Mr. TROTTER. Yes, that is definitely a great example. EGCs, when they go public, they can go public with 2 years, but there are these aberrational circumstances that your bill would address where experience has shown that despite having gone public with 2 years, for whatever weird reason, they are required to present a third year. It makes no sense, and there is no easy path for relief for those companies. Addressing that scenario in a spinoff scenario, as well as a case where maybe a newly public, emerging growth company has acquired another company and they have to come up with a third year of target financial statements, that makes no sense in those situations. You are fixing parts of the rules where there is an extra burden that really should not be there.

Mr. NUNN. Hopefully that is a good onramp. Mr. Chairman, thank you very much. I yield the remainder of my time.

Mr. DOWNING. The gentleman yields. I now recognize myself for 5 minutes for questions.

First, without objection, I enter into the record a comment letter from the Institute for Portfolio Alternatives.

So ordered.

[The information referred to can be found in the appendix.]

Mr. DOWNING. Montana is a very rural State, and according to the SBA, more than 99 percent of Montana businesses are considered or classified as small businesses, and they employ a super majority of the State, 67 percent of Montanans. I have a lot of experience dealing with the challenges of a startup, especially in a rural State, and this is mostly a comment. I really appreciate some of the comments that we have had on the unique challenges that rural startups face, but I am going to start on something a little bit different.

One of the issues that I have had in my career before politics is, like, the definition of "accredited investors." It is something that has bugged me because it seemed like it disqualified a lot of Americans from being able to participate in alternatives, and it was a big problem for that. Mr. Trotter, the current accredited investor standard limits investments in the private markets to individuals with an annual income of at least $200,000 and net worth over a million dollars. The median income in Montana is about $71,000 with only 8 percent of households making $200,000 or more, and over 99 percent of U.S. companies are not publicly traded. My question is, does this deny retail investors growth and diversity in their retirement accounts when they can essentially only invest in less than 1 percent of U.S. companies?

Mr. TROTTER. Yes, it does, and I have been to a number of these hearings where a lot of emphasis is placed on this definition. It does seem like there is room for commonsense expansion of the definition and to take a more pervasive approach.

Mr. DOWNING. Right. I have always struggled with the fact that you could have no experience and a lot of money and you are qualified, or you can have a lot of experience and not enough money and you are not qualified, and so thank you for your answer there.

I am going to go to Ms. Matthews Brackeen. Most VC funding—venture capital funding—is concentrated in California, Massachusetts, and New York. Again, I struggled with this, trying to start a startup company outside of California, and we have discussed a lot today on how new challenges are needed to expand venture capital access to other states, like Montana. The 2012 JOBS Act contains several provisions to make raising capital in private markets easier. After the passage of the JOBS Act, did you see some venture capital funding going to other areas that would demonstrate the need for Congress to do more now?

Ms. MATTHEWS BRACKEEN. Yes. I will say that I have been in the tech industry specifically for the last 10 years, so some of that was before my time. However, I will State that SSBCI funding did get put into the State of Ohio, and it helped launch three major funds in our State: Cincy Tech, REV1, and Jumpstart. We have seen incredible economic development in our State because of that, and I think that States like yours in Montana could see the same if we continue those programs.

Mr. DOWNING. Thank you. Shifting on to Mr. Newell, the U.S. has recorded several of its worst years on record for initial public offerings as costs associated with going public have doubled since the 1990s. Costs are crazy. Gary Gensler, the former chair of the SEC, never proposed a single rulemaking to make raising capital easier. In fact, he pushed policies to make private markets less attractive, like adding costly regulatory requirements and disclosures on private funds. Can you explain why it is a bad idea to try to force companies to go public when they are not ready?

Mr. NEWELL. The regulatory burden of becoming a public company is not insubstantial. The accounting costs that are required can run into the millions of dollars, and, you know, that is money that is not going to advancing your business. That is not money going to hire new employees. That is money going to satisfy accounting requirements that, frankly, are not rightsized for the business at that point in time, so it acts as a great deterrent. I would say that you have to think carefully about going public. It is one of these be careful what you wish for because you might get it. There are a lot of things that if you are not well advised, you are going to discover that you now need to triple the size of your accounting force, your finance team, just to meet compliance requirements when, really, that is not necessary for investor protection. There are other investor protections we have as well, and we have talked about a lot of them here today.

Mr. DOWNING. Yes. Thank you, and I thank all the witnesses for your time today. This has been very useful and informative. I yield my time, and I would like to thank you all for your testimony.

Without objection, all members will have 5 legislative days to submit additional written questions for the witnesses to the chair. The questions will be forwarded to the witness for his response or her response. Witnesses, please respond no later than April 29, 2025.

[The information referred to can be found in the appendix.]

Mr. DOWNING. With that, this hearing is adjourned.

[Whereupon, at 2:35 p.m., the committee was adjourned.]

APPENDIX

MATERIALS SUBMITTED FOR THE RECORD

Institute for Portfolio Alternatives

March 25, 2025

The Honorable French Hill
Chair
Committee on Financial Services
United States House of Representatives

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives

RE: 3/25/2025 Hearing – *Beyond Silicon Valley: Expanding Access to Capital Across America*

Dear Chairman Hill and Ranking Member Waters:

Thank you for scheduling today's hearing to examine capital formation policies and ways to strengthen America's financial markets. On behalf of the Institute for Portfolio Alternatives (IPA),[1] IPA is pleased to support this hearing and to share our policy priorities that will support our economy through increased access to alternative investments. These alternative investment vehicles, including private credit, private equity, real estate and infrastructure, facilitate capital formation, diversify investment portfolios, spur job growth and help provide more uniform investment returns for both institutional and individual investors.

For the purposes of today's hearing and the House Financial Services Committee's efforts going forward, IPA urges you to consider the following initiatives that can support our economy:

Expand the Accredited Investor Definition
IPA advocates for a detailed and multifaceted examination of the accredited investor definition by Congress and the Securities and Exchange Commission (SEC), taking into account the broader dynamics of our ever-changing economy and the increasingly pivotal role of private markets.

IPA believes that income and net worth thresholds alone are not determinative of a person's financial sophistication or acumen, and that there should be additional pathways, including through examination or testing, for individuals to qualify as accredited investors.

We also believe that the current conduct standards applicable to financial professionals working with investors, such as the investment adviser fiduciary duty and the broker-dealer's best interest standard, are sufficiently robust and provide adequate safeguards to ensure that recommended investments are suitable for and in the best interest of investors. These protections should allow investors to qualify as accredited.

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[1] For nearly 40 years, the IPA has served as the preeminent trade organization championing alternative investments and represents global asset managers and national distributors of alternative investment products, as well as other stakeholders such as law firms, accounting firms and fintech firms. Visit the IPA's website for a full membership roster.

We strongly urge you to approve legislation that would meaningfully expand the accredited investor definition while maintaining vital investor protections, which would enable investors and those saving for retirement to grow and diversify their investment portfolios.

The House over the last several Congresses has consistently and overwhelmingly passed bipartisan legislation to expand the accredited investor definition, including several bills noticed for this hearing.

IPA specifically supports the following bills that would meaningfully expand the accredited investor definition while maintaining investor protections.

- *Fair Investment Opportunities for Professional Experts Act*, introduced by Chairman Hill. As you know, this bill would expand the definition of an accredited investor to include individuals with certain licenses and qualifying education or job experience, such as certain Financial Industry Regulatory Authority (FINRA) certifications.
- *Accredited Investors Include Individuals Receiving Advice from Certain Professionals Act*, introduced last Congress by former Chairman McHenry. This bill would expand the definition of an accredited investor to include those who receive individualized investment advice about a private offering from a professional that qualifies as an accredited investor.
- *Accredited Investor Definition Review Act*, introduced by Congressman Huizenga. This bill would clarify that the SEC has discretion to expand the accredited investor definition as the "Commission determines necessary or appropriate in the public interest or for the protection of investors."
- *Equal Opportunity for All Investors Act*, introduced by Congressman Flood. This bill would expand the definition of an accredited investor to include individuals that are certified through an examination established by the SEC and administered by FINRA.
- *Risk Disclosure and Investor Attestation Act*, introduced by Congressman Davidson. This bill would require the SEC to create a form that would allow individuals to qualify as an "accredited investor" by self-certifying that they understand the risks of investment in private issuers.
- *Investment Opportunity Expansion Act*, introduced by Congressman Stutzman. This bill would expand the definition of an accredited investor to include individuals who invest 10 percent or less of the greater of their net assets or annual income in a private offering.

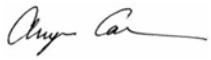
Eliminate Restriction on Registered Closed-End Funds Investing in Private Assets
SEC staff maintains an informal position stating that if a registered publicly traded closed-end fund (CEF) invests more than 15 percent of assets in private funds, the CEF must limit its offering and sale to accredited investors while also imposing a $25,000 initial investment minimum.

The 15-percent limitation creates an artificial barrier that prevents ordinary investors from gaining access to a wealth-building asset class. Further, the required minimum investment amount discourages many accredited investors from participating in the first place thereby inhibiting capital formation and economic growth.

We believe the SEC should eliminate this restriction on registered CEFs, and, to that end, the IPA proudly supports Congresswoman Wagner's *Increasing Investor Opportunities Act*, which would prohibit the SEC from limiting the sale or listing of securities of a registered CEF that invests in private investment funds.

Thank you for your service to our country and for your continued leadership to promote policies that support U.S. economic growth, investment and access to capital for all Americans. Please email Jeff Evans (jevans@ipa.com), IPA director of government affairs and policy, if you or your staff have questions.

Sincerely,



Anya Coverman
President & CEO, Institute for Portfolio Alternatives

CC: The Honorable Ann Wagner
The Honorable Brad Sherman

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March 10, 2025

The Honorable Tim Scott (R-SC)
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Elizabeth Warren (D-MA)
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable French Hill (R-AR)
Chairman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Maxine Waters (D-CA)
Ranking Member
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

RE: NASAA Calls on Congress to Exclude All Interest-Bearing Securities from the Definition of Payment Stablecoin

Dear Chairmen Scott and Hill and Ranking Members Warren and Waters:

On behalf of the North American Securities Administrators Association, Inc. ("NASAA"),[1] I write to thank you for your implementation of NASAA's earlier feedback that federal payment stablecoin legislation at minimum should retain a registration pathway for money market funds. In addition, I write to request that you amend the definition of "payment stablecoin" in any related federal legislation so that it includes a prohibition on the payment of interest entirely. As explained below, we believe Congress should effectuate this prohibition by carving interest-bearing securities out entirely from the definition of payment stablecoin. Relatedly, we encourage Congress to include a provision in any related federal legislation that makes clear that (i) the references to "securities" and "investment companies" in the legislation include both on-chain and off-chain securities and funds and (ii) the inclusion of off-chain securities and funds is *solely* for the limited purpose of interpreting the definition of payment stablecoin. Last, we recommend that Congress allow the work currently underway by the U.S. Securities and Exchange Commission's ("SEC") Crypto Task Force, including anticipated engagement with state securities regulators, to mature and generate technical and other comments to promote a consistent approach to the definition of "payment stablecoin."

[1] Organized in 1919, NASAA is the oldest international organization devoted to investor protection. NASAA's membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, México, Puerto Rico, the U.S. Virgin Islands, and Guam. NASAA is the voice of securities agencies responsible for grassroots investor protection and efficient capital formation.

I. Present Treatment of Securities in the Pending Legislative Proposals

As noted, pending payment stablecoin bills, including the Guiding and Establishing National Innovation for U.S. Stablecoins ("GENIUS") Act of 2025 and the Stablecoin Transparency and Accountability for a Better Ledger Economy ("STABLE") Act of 2025, continue to be written in a way that arguably can be read to include certain securities that should be carved out of the definition of payment stablecoin. This letter focuses on the GENIUS Act and the STABLE Act.

Section 2 of the GENIUS Act would define payment stablecoins as any digital asset designed to be used as a means of payment or settlement. The issuer of such assets must be an entity that is obligated to convert, redeem, or repurchase for a fixed amount of monetary value and represents, will maintain, or creates the reasonable expectation that it will maintain a stable value relative to a fixed amount of monetary value. Payment stablecoins would not include national currency or a security issued by an investment company.[2]

Section 14 of the GENIUS Act would amend federal securities laws to carve payment stablecoins out of the securities law. Specifically, in Section 14, the legislation would amend the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Act of 1933, the Securities Exchange Act of 1934, and the Securities Investor Protection Act of 1970 to state the following: "The term 'security' does not include a payment stablecoin issued by a permitted payment stablecoin issuer, as such terms are defined, respectively, in section 2 of [the legislation]."[3]

The STABLE Act would take the same approach. Section 2 of the STABLE Act would define payment stablecoins and similarly exclude a security issued by an investment company registered under section 8(a) of the Investment Company Act of 1940.[4] Section 13 of the bill would amend federal securities laws to carve payment stablecoins out of the securities law.[5]

As background, the above approaches differ from an earlier approach offered by then-Senator Patrick Toomey (R-PA) through his Stablecoin Transparency of Reserves and Uniform Safe Transactions ("TRUST") Act of 2022. Section 2 of the Stablecoin TRUST Act would define payment stablecoin as any digital asset that is designed to maintain a stable value relative to a fiat currency or currencies, is convertible directly to fiat currency by the issuer, is designed to be widely used as a medium of exchange, is issued by a centralized entity, does not inherently pay interest to the holder, and is recorded on a public distributed ledger. Section 7 of the

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[2] *See* S. 394, the Guiding and Establishing National Innovation for U.S. Stablecoins Act of 2025, 119th Congress, 1st Session (Feb. 4, 2025).
[3] *See* id.
[4] *See* H.R. ___, the Stablecoin Transparency and Accountability for a Better Ledger Economy Act of 2025, Discussion Draft, 119th Congress, 1st Session (Mar. 6, 2025). The STABLE Act of 2025 also contains a carveout for deposits (as defined under section 3 of the Federal Deposit Insurance Act) for being considered a payment stablecoin.
[5] *See* H.R. ___, the Stablecoin Transparency and Accountability for a Better Ledger Economy Act of 2025, Discussion Draft, 119th Congress, 1st Session (Mar. 6, 2025).

Stablecoin TRUST Act would amend federal securities laws to exclude payment stablecoins from the definition of a security.[6] Indeed, Senator Toomey stated that one of the "key components" of his legislation was that it would provide "much-needed clarity that, at a minimum, stablecoins that do not offer interest are not securities."[7]

As further background, to the best of our knowledge, Congress has yet to consider any legislation specific to payment stablecoins that acknowledges the fact that, at present, our securities markets have both (i) securities and funds that are issued and traded off-chain (so-called traditional financial products) and (ii) securities and funds that are issued and traded on-chain. As explained below, we encourage Congress to include a provision in any related federal legislation that makes clear that (i) the references to "securities" and "investment companies" in the legislation include both on-chain and off-chain securities and funds and (ii) the inclusion of off-chain securities and funds in the legislation is *solely* for the limited purpose of interpreting the definition of payment stablecoin.

II. Present Illustrative Interest-Bearing Securities

As you know, the state and federal securities laws use the same or a very similar definition of a security. The definition of a "security" in the Securities Act of 1933 is illustrative of present securities law. The definition includes the following:

> any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a 'security', or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.[8]

Historically, the above products have been traded without distributed ledger technologies. Today, while adoption is limited, there is a growing menu of tokenized securities and funds,

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[6] *See* S. 5340, the Stablecoin Transparency of Reserves and Uniform Safe Transactions Act of 2022, 117th Congress, 2nd Session (Dec. 21, 2022).
[7] *See* U.S. Senate Committee on Banking, Housing, and Urban Affairs, Toomey Introduces Legislation to Guide Future Stablecoin Regulation, U.S. Senate Committee on Banking, Housing, and Urban Affairs (Dec. 21, 2022).
[8] *See* Securities Act of 1933.

including for fixed-income products such as government bonds, corporate bonds, treasury bills, certificates of deposit, debentures, and mortgage-backed securities.[9] The following are examples:

- As of March 2025, there are tokenized notes issued as an ERC-20 token on the Ethereum blockchain and secured by U.S. Treasuries and bank demand deposits. The holders receive yield generated from the underlying asset in the form of increasing redemption value. The issuer describes applicable regulation as follows: "Continuous Reg S Compliant Offering."[10]

- In February 2025, Figure Certificate Company ("FCC"), a face-amount certificate company, registered securities called YLDs. FCC is the first company to register with the SEC as a face-amount certificate company under the Investment Company Act of 1940 in over a quarter century and only the second currently operating face-amount certificate company in the United States.[11] YLDs are debt securities that FCC will issue and redeem using blockchain technology and which will be transferrable on the blockchain in peer-to-peer and registered alternative trading system ("ATS") transactions. YLDs are the first U.S. registered debt security stablecoin that offers interest on invested principal and is transferable in both peer-to-peer transactions and in transactions on a registered ATS.[12]

- The tokenization of U.S. Treasuries is a relatively new trend. Today, there exist tokenized U.S. Treasury funds that provide investors access to tokenized forms of U.S. Treasuries on blockchains that behave in many ways like Treasury exchange-traded funds or government money market funds. In addition, there are tokenized U.S. Treasury repurchase agreement projects. Here, tokenized U.S. Treasuries allow for instantaneous, 24/7 settlement and trading. Further, there are ongoing pilot projects that would use tokenized U.S. Treasuries in different applications ranging from posting/return collateral for a margin trade and hypothecating a tokenized U.S. Treasury in case of a default.[13]

As additional context, over several years, state and federal securities regulators have held companies accountable for selling unregistered securities to retail investors through interest accounts. In short, the companies promoted interest accounts with promises of high returns for investors. The company took control of and pooled the investors' loaned digital assets and

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[9] *See* RWA.xyz, Tokenized Treasuries and Tokenized Global Bonds (Last accessed Mar. 7, 2025) (listing types of tokenized U.S. treasuries, bonds, and cash-equivalents trading in global markets and in some cases in the United States).
[10] *See* Readi, Ondo US Dollar Yield Token, Readi (Last accessed Mar. 7, 2025).
[11] *See* A&O Shearman, A&O Shearman advises on registered security/stablecoin offering for Figure Certificate Company (Feb. 24, 2025).
[12] Access Figure Certificate Co. regulatory filings on EDGAR.
[13] *See* U.S. Department of the Treasury, Office of Debt Management, Fiscal Year 2024 Q4 Report, Presentation to the Treasury Borrowing Advisory Committee (Oct. 2024), at p. 107 of 132. *See also* SIFMA, Business Applicability Report, Regulated Settlement Network (RSN) Proof of Concept (Dec. 5, 2024), at p. 24; U.S. Department of the Treasury, About Treasury Marketable Securities (Last accessed Mar. 9, 2025).

exercised sole discretion over the pooled digital assets, including how to use those assets to generate a return and pay investors the promised interest. The regulators held companies accountable for violations employing the investment contract and note analyses, as well as Investment Company Act violations.[14]

III. The Exclusion of All Interest-Bearing Securities from the Definition of Payment Stablecoin

NASAA respectfully requests that federal legislators exclude all interest-bearing securities from the definition of payment stablecoin. In our opinion, such an exclusion would be the easiest way, as a matter of law and policy, to make clear that securities that historically have been used as cash equivalents are not payment stablecoins. As illustrated above (see Section II), the exclusion would ensure that Congress is not inadvertently recharacterizing certain tokenized securities, such as tokenized U.S. Treasuries, as "payment stablecoins." The exclusion would ensure that Congress does not deny securities market participants the choice of exploring the use of distributed ledger technologies to issue and trade additional types of interest-bearing securities.

IV. The Recognition of On-Chain and Off-Chain Securities and Funds in Federal Legislation *Solely* for the Limited Purpose of Interpreting the Definition of Payment Stablecoin

Congress has been debating and discussing legislation related to payment stablecoins for several years now. During this period, securities market participants have begun to use distributed ledger technologies to issue and trade so-called traditional securities and funds. Further, Congress has not updated the federal securities and other financial laws to distinguish between securities and funds that use distributed ledger technologies and securities and funds that do not use distributed ledger technologies.

In turn, we encourage Congress to include a provision in any related federal legislation that makes clear that (i) the references to "securities" and "investment companies" in the legislation include both on-chain and off-chain securities and funds and (ii) the inclusion of off-chain securities and funds in the legislation is *solely* for the limited purpose of interpreting the definition of payment stablecoin. Stated differently, the new law for payment stablecoins would have no legal effect on the principles and requirements set forth in the federal securities laws pertaining to off-chain securities and funds. Being clear and precise in this respect would help avoid a situation where Congress inadvertently creates confusion within the traditional (or off-chain) securities regulatory markets.

V. Benefit from the SEC's and NASAA's Ongoing Work

Last, NASAA respectfully requests that Congress avoid the inevitable confusion among market participants and investors that will result from not allowing the work underway at the

[14] *See* NASAA, NASAA and SEC Announce $100 Million Settlement with BlockFi Lending, LLC (Feb. 14, 2022).

SEC and at many other agencies[15] to advance before finalization of any federal legislation regarding payment stablecoins or market structure. We believe the new SEC Crypto Task Force and its engagement with stakeholders will yield new information that could affect your decisions regarding the definition of payment stablecoin. In addition, NASAA recently launched an internal crypto working group, which builds on the work of prior similar efforts, that will yield insightful information. While we, too, fully recognize the urgency of providing additional support to our market participants, we would oppose the passage of any legislation on any topic that would fuel confusion or introduce more problems than it solves.

Thank you for your time and consideration. Should you have questions or wish to engage on any legislative proposals, please do not hesitate to contact me or Kristen Hutchens, NASAA's Director of Policy and Government Affairs, and Policy Counsel, at khutchens@nasaa.org.

Sincerely,

Leslie M. Van Buskirk

Leslie M. Van Buskirk
NASAA President and
Administrator, Division of Securities
Wisconsin Department of Financial
Institutions

[15] *See* White House, Strengthening American Leadership in Digital Financial Technology (Jan. 23, 2025) (establishing the President's Working Group on Digital Asset Markets with representation from across the federal government, including the Commodity Futures Trading Commission, SEC, and U.S. Department of the Treasury).

Steve Case

Chairman and CEO

Revolution

Friday, April 11, 2025

Response to Questions for the Record

Submitted to the House Financial Services Committee

Hearing on "Beyond Silicon Valley: Expanding Access to Capital Across America"

March 25, 2025

Question 1:

Which of the following options best describes your self-identified race? (you may choose more than one)

a. White or Caucasian

b. Black or African American

c. Hispanic/Latinx

d. Asian

e. Middle Eastern/North African

f. Choose not to answer

g. Prefer to self-describe (please specify)

Response: A. White or Caucasian

Question 2:

Which of the following options best describes your gender identity?

a. Woman

b. Man

c. Non-binary

d. Transgender Man

e. Transgender Woman

f. Choose not to answer

g. Prefer to self-describe (please specify)

Response: B. Man

Question 3:

Over the years, Congress and the SEC have built up strong data protection and firewalls so the SEC's critical data does not fall into the wrong hands. Mr. Case, you've guided many companies through the IPO process. If you were advising a company preparing to go public today, would you feel comfortable knowing their confidential draft registration statements and non-public SEC staff comment letters identifying material weaknesses could be accessed by Elon Musk? You know he directly competes with public and private companies in at least three sectors. What would be the impact of Mr. Musk's and DOGE's activities at the SEC on investors' confidence in our markets and regulators?

Response:

I do not know the specifics of any individual request, but I do believe the integrity of our institutions depends on maintaining strong safeguards—especially when it comes to confidential materials. The SEC plays a vital role in maintaining trust in our financial markets, and that includes having clear cybersecurity protocols and consistent processes for access. We can and should talk about how to make systems more transparent and responsive, but always with security and fairness at the core.

FRENCH HILL, AR
CHAIRMAN

MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
One Hundred Nineteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Questions for the Record
Full Committee Hearing, entitled "Beyond Silicon Valley: Expanding Access to Capital Across America"
March 25, 2025

Ranking Member Waters:

Mr. Bill Newell

1. Which of the following options best describes your self-identified race? (you may choose more than one)
    a. **White or Caucasian**
    b. Black or African American
    c. Hispanic/Latinx
    d. Asian
    e. Middle Eastern/North African
    f. Choose not to answer
    g. Prefer to self-describe (please specify)

2. Which of the following options best describes your gender identity?
    a. Woman
    b. **Man**
    c. Non-binary
    d. Transgender Man
    e. Transgender Woman
    f. Choose not to answer
    g. Prefer to self-describe (please specify)

Re: Questions for the Record

Full Committee Hearing: "Beyond Silicon Valley: Expanding Access to Capital Across America"

March 25, 2025

Ranking Member Waters,

Thank you for your question. I am a Black woman.

Sincerely,

Candice Matthews Brackeen
Founder & Partner
Lightship Capital Management

NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.
750 First Street, NE, Suite 990
Washington, DC 20002
202-737-0900
www.nasaa.org

April 29, 2025

Svent Bossart
Clerk
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

RE: March 25, 2025, Hearing, "Beyond Silicon Valley: Expanding Access to Capital Across America"

Dear Mr. Bossart:

Enclosed please find NASAA's responses to the four (4) questions for the record that we received in connection with the March 25 hearing. Should you or Ranking Member Waters have any questions regarding these responses, please do not hesitate to contact Kristen Hutchens, NASAA's Director of Policy and Government Affairs, and Policy Counsel, at khutchens@nasaa.org.

Sincerely,

Leslie M. Van Buskirk

Leslie M. Van Buskirk
NASAA President and
Administrator, Division of Securities
Wisconsin Department of Financial Institutions

CC: Amanda W. Senn
Director, Alabama Securities Commission
NASAA Enforcement Section Co-Chair

Enclosures

Questions for Ms. Amanda W. Senn, Director, Alabama Securities Commission, from Ranking Member Waters:

1. **Which of the following options best describes your self-identified race? (you may choose more than one)**
   a. **White or Caucasian**
   b. Black or African American
   c. Hispanic/Latinx
   d. Asian
   e. Middle Eastern/North African
   f. Choose not to answer
   g. Prefer to self-describe (please specify)

2. **Which of the following options best describes your gender identity?**
   a. **Woman**
   b. Man
   c. Non-binary
   d. Transgender Man
   e. Transgender Woman
   f. Choose not to answer
   g. Prefer to self-describe (please specify)

Questions for NASAA from Ranking Member Waters:

3. **Ms. Senn, back in 115th and 116th Congress, I had a bill to close some loopholes related to SEC's Form D. Your written testimony also discusses how the SEC's Form D needs reforms. For those in this room or watching, SEC's Form D is a notice that companies are supposed to file with the SEC and states securities' regulators every time they raise capital without registering the security. Investor advocates and regulators have raised concerns that not only is Form D in need of reform, but even the existing requirements of the notice are rarely enforced. Could you discuss in some detail how reforming Form D could enhance transparency, reduce the risk of mispricing companies, and reduce fraud which should promote healthier capital formation and market stability?**

A. NASAA Urges Congress to Reform Form D

NASAA prepared draft legislation called the Fixing Our Risky Markets Disclosures Act of 2025, also known as the FORM D Act (see Appendix). As you will see, the enactment of the FORM D Act would make improvements such as the following:

1. A requirement that issuers submit an initial Form D in Rule 506(b) and 506(c) offerings (a so-called "Advance Form D") that contains information to help the SEC and state securities regulators understand the marketplace and protect investors;

2. A requirement that issuers amend their Advance Form Ds (which effectively is a Form D at this point) with the remaining information required by Form D no later than 15 calendar days after the date of the first sale of securities in the Rule 506(b) or 506(c) offering;

3. A requirement that issuers file a closing amendment to the Form D after the termination of any Rule 506 offering;

4. Additional information collected through Form D to align with industry practices and the informational needs of investors and regulators; and

5. The loss by the issuer of the ability to claim the exemptions under Regulation D, Rule 506 if the issuer fails to comply with the Form D requirements.

B. NASAA Encourages Congress to Consider the Benefits of Enhanced, Timely Data Regarding Rule 506 Offerings

The FORM D Act would empower several market stakeholders with earlier and better information, all to the betterment of our capital markets. In particular, regulators, lawmakers, investors, and companies would benefit.

First, regulators and lawmakers could use the improved information for research and monitoring. For example, the data could inform new federal legislation, regulations, and rules related to the federal exemption offering framework. It also could help the government identify risks to the financial system and better manage financial stability. The earlier and additional data required by the FORM D Act also would help the government to prevent or mitigate fraudulent schemes, all to the benefit of industry and investors.[1]

Regarding this last point, the best tool that the government presently has to distinguish between a legitimate capital raise and a scam is Form D. While some scamsters file Form Ds with the government, in part to make their offerings appear legitimate to investors and regulators, most scamsters do not. In turn, the failure to file a Form D can be a red flag.

Fraud issues aside, we as state securities regulators regularly encounter situations where the submission of a Form D earlier in the offering would have helped the issuer to avoid costs and other burdens. Typically, the situation involves an investor complaint to us about the offering. We take all such inquiries seriously. If we cannot resolve the inquiry ourselves, we contact the issuers, which normally prompts the immediate hiring of lawyers and similar activities with associated costs. Had a Form D been on file, the investor may never have contacted us in the first place. Where the complaint still occurred, we may have been able to resolve it using the Form D.

[1] *See* Craig McCann, Chuan Qin, and Mike Yan, Regulation D Offerings: Issuers, Investors, and Intermediaries (Sept. 2023) ("Securities relying on Reg D exemptions (Reg D securities) are more opaque, less liquid, charge higher fees, and have a greater potential for losses due to issuer failure and fraud compared with registered securities.").

We also use the Form D filings to foster compliance with the securities laws. For example, we have used the information in Form D filings to identify individuals who have started investment funds without realizing that their activities necessitated registration as an investment adviser.

Second, investors could use enhanced data to make more informed decisions, leveraging the information for better market research and investment research. Notably, the earlier and better information required by the FORM D Act would help investors minimize or avoid paying more than the true value of an asset.

Third, public and private companies could use enhanced data to prepare more accurate disclosures about their own risks. Presently, companies disclosing risks may be using incomplete information about private companies to ascertain whether the private companies pose any operational, reputational or other risks.

4. **Ms. Senn, as a securities regulator in Alabama, you've been on the front lines protecting investors while facilitating capital formation in your state. Several proposals before this Committee would preempt state securities authorities. From your experience, could you explain why state regulators are often better positioned to identify local securities fraud and misconduct that federal regulators might miss? In your professional judgment, would undermining state securities regulation lead to increased fraud, reduced investor confidence, and ultimately lead to capital destruction in states like yours?**

A. <u>NASAA Urges Congress to Empower State Regulators to Prevent and Detect Fraud</u>

State securities regulators are in a better position than our federal partners to identify local securities fraud and misconduct. The following are illustrative examples of contributing factors:

First, we have a unique advantage in identifying local securities fraud and misconduct. Specifically, we have a physical presence in all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

Second, we are actively engaged in our communities whether it be speaking at local social or civic clubs, interacting with organizations that provide resources to small businesses, or conducting investor and financial education programs in schools and senior centers. With this physical infrastructure and robust, ongoing outreach to communities, we learn earlier about new threats to businesses and investors.

Third, we communicate and collaborate regularly with each other. When an issue in one jurisdiction appears to be present in several jurisdictions, we normally work together to investigate the issue and resolve the matter. Where the matter has a federal nexus, we communicate and collaborate with our federal partners. Often, the states handle the work that benefits from having physical infrastructure and contacts throughout the United States.

State securities regulators take seriously their responsibility to share information regarding local securities fraud and misconduct. For example, through NASAA, we publish the results of an annual enforcement survey, investor alerts on new and emerging scams, and a top list of investor threats.[2]

State securities regulators would be in an even better position to identify local securities fraud and misconduct if the federal government had not enacted laws such as the National Securities Markets Improvement Act of 1996 ("NSMIA") and the Jumpstart Our Business Startups Act of 2012 ("2012 JOBS Act"). These laws preempted the states' ability to review and register most securities offerings.[3] In the absence of such preemption, entrepreneurs and small business owners would be even more incentivized to engage with their state regulators in ways that ultimately protect them and their investors from fraud and misconduct.

B. NASAA Urges Congress to Consider the Consequences of Preemption for Entrepreneurs, Small Businesses, and Investors

As your question alludes to, Congress is considering proposals that, at best, would make it more difficult for state securities regulators to fulfill their missions to protect investors. More likely, these preemptive measures would affect businesses and investors adversely and decrease trust in our markets. The proposals are outlined as follows:

1. The Small Entrepreneurs' Empowerment and Development ("SEED") Act

The SEED Act would establish a broad federal exemption (or safe harbor) for so-called "micro-offerings" (offerings up to $250,000) and add micro-offerings as a federal covered security, thereby preempting state registration or qualification requirements with respect to micro-offerings. The SEED Act would disempower the very securities regulators who are doing the most work to educate issuers about micro-offerings, while also sowing further opportunities to defraud investors.[4]

NASAA urges Congress to reconsider the SEED Act for five (5) key reasons. First, this legislation is contrary to the purposes of the securities laws necessary for well-regulated capital markets and investor confidence. Second, it is simply unnecessary. There are many paths to raise capital, especially for an offering of $250,000 or less. Third, this legislation injects new complexity into an exemption framework that is complex already.[5] Fourth, registration and notice filings (which essentially are brief communications to the states) are the regulatory tools that state regulators need and use to identify who is operating in their states. Regulators cannot protect investors without a line of sight into the companies selling these securities. State regulators cannot help entrepreneurs and small business leaders if they do not know who is

[2] To see the most recent survey results, access NASAA Highlights Top Investor Threats for 2025 (Mar. 6, 2025).
[3] *See, e.g.,* NSMIA, Pub. L. No. 104-290, 110 Stat. 3416 (Oct. 11, 1996). *See also* 2012 JOBS Act, Pub. L. No. 112-106, 126 Stat. 306 (Apr. 5, 2012).
[4] See Discussion Draft of H.R. ____, SEED Act of 2025, 119th Congress, 1st Session (Mar. 24, 2025).
[5] *See* SEC Overview for Exemptions to Raise Capital (Last Updated: 2024).

operating in their jurisdictions. Fifth, absent any registration or notice filing to the states, state securities regulators may first learn about the transactions through other communications such as a call from a concerned citizen or investor and be obligated to open an investigation, all without the benefit of the information that would have been communicated through these filings. For some issuers, it may require more resources to respond to the investigation than it would have required to prepare a basic filing. At the end of the day, this legislation would reduce educational and compliance support for the very entrepreneurs and small businesses that state securities regulators presently are helping.

2. The Improving Crowdfunding Opportunities Act

The Improving Crowdfunding Opportunities Act would preempt state registration or qualification of secondary transactions, weaken the minimal investor protections that exist today for crowdfunding offerings, and make other significant changes to an already scaled back regulatory framework.[6]

Congress should understand that further preemption of the states in this area would expand the *de facto* regulatory gap that exists with respect to the regulation of crowdfunding secondary transactions. The SEC was slow to establish a new regime for crowdfunding transactions and has been slow or unwilling to take enforcement actions in crowdfunding-related cases that involve losses under $1 million.[7] Given the SEC's record of deprioritizing crowdfunding, one could argue that there is no meaningful federal equivalent of the state requirements to protect investors. That gap, coupled with the deregulation of funding portals contemplated under this proposal, would lead to more aggressive practices by funding portals targeting investors, fewer remedies for harmed investors, and ultimately damage the credibility of all offerings made under the SEC's Regulation CF.

3. The Restoring the Secondary Trading Market Act

The Restoring the Secondary Trading Market Act would prohibit state governments from regulating the "off-exchange secondary trading in securities of an issuer that makes current information publicly available."[8] The bill identifies information presently required under federal law that would constitute "current information publicly available."

This legislation is unnecessary given the deliberate and conscientious efforts by states to streamline certain processes for compliance with state laws while ensuring investors have the information they need to make informed decisions. A majority of states maintain a manual exemption to facilitate secondary trading. In many states, the SEC's Electronic Data Gathering,

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[6] *See* Discussion Draft of H.R. ___, the Improving Crowdfunding Opportunities Act, 119th Congress, 1st Session (Feb. 5, 2025).

[7] The SEC adopted final rules permitting companies to offer and sell securities through crowdfunding in 2015, three (3) years after enactment of the 2012 JOBS Act. *See* SEC, SEC Adopts Rules to Permit Crowdfunding, Press Release 2015-249 (Oct. 30, 2015).

[8] *See* Discussion Draft of H.R. ___, the Restoring the Secondary Trading Market Act, 119th Congress, 1st Session (Feb. 20, 2025).

Analysis, and Retrieval ("EDGAR") system can be a designated source for purposes of the manual exemption.

In addition, this legislation would not solve the longstanding illiquidity problems in the Regulation A market.[9] A variety of factors having nothing to do with state regulations, including inefficiencies in share transfer recordkeeping and the fact that the issuer usually has a right of first refusal, still hinder the secondary trading of these securities. Inaction with respect to those factors, coupled with further preemption of state laws, would not spur additional demand for these securities.

This legislation would lead to more aggressive practices targeting investors, fewer remedies for harmed investors, and ultimately damage to the credibility of offerings made under the SEC's Regulation A. If Congress wanted to take additional action with respect to the Regulation A market, it would be useful to direct the SEC to research and analyze whether it even makes sense to maintain the Regulation A regulatory framework at all given the persistent lack of demand for these deals and the overall poor performance of many of the companies that have relied on Regulation A.

4. The Unlocking Capital for Small Businesses Act

Last and importantly, this bill would prevent state governments from registering or licensing finders with the state and would otherwise constrain the ability of state governments to protect businesses and investors from bad actors in the private placement market. State securities regulators cannot protect investors or otherwise support responsible capital formation if they lack a line of sight into who is promoting securities in their states.[10] State registration requirements, in effect, are the line of sight.

States have been leaders for decades in registering and licensing investment professionals. States continue to be sensitive to the burdens of registration for industry, maintaining manageable fees and adopting exemptions from registration where appropriate given the risks involved for investors. States remain open to discussing the establishment of a tailored registration regime for finders and working in collaboration with the SEC and FINRA to

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[9] In August 2020, the SEC issued a report—as mandated by Congress—on the performance of Regulation A and Regulation D. SEC staff examined Regulation A offerings conducted between June 2015 and the end of 2019. During this time period, the total amount raised under Regulation A was $2.4 billion, including $2.2 billion under Tier 2 and $230 million under Tier 1. Issuers sought an average of $30.1 million in Tier 2 offerings but raised on average only $15.4 million. In Tier 1 offerings, issuers sought an average of $7.2 million and raised $5.9 million. Data is not available to show the extent to which retail investors other than accredited investors were participants in these offerings. SEC staff found that the typical issuer does not experience an improvement in profitability, continuing to realize a net loss in the years following an offering that utilizes Regulation A. This was based on available data, which necessarily overstated the success rate because it only included issuers that continued to file periodic reports after the offerings and not those that ceased operations and reporting. Despite the infusion of capital, only 45.8 percent of issuers continued filing periodic reports for three (3) years following the offering. *See* SEC, Report to Congress on Regulation A / Regulation D Performance As Directed by the House Committee on Appropriations in H.R. Rept. No. 116-122 (Aug. 2020) at 88, 89, 91, 94, and 98.

[10] *See* Discussion Draft of H.R. ___, the Unlocking Capital for Small Businesses Act, 119th Congress, 1st Session (Feb. 20, 2025).

establish the lighter-touch regime.[11] States, however, remain strongly opposed to the idea that finders would be professionals unregistered with the states. Such unregistered activity would increase the risk of fraud, among other dangers to our markets.

[11] NASAA has long opposed the Unlocking Capital for Small Businesses Act. *See, e.g.,* NASAA, NASAA Letter to Congress Regarding H.R. 6127, the Unlocking Capital for Small Businesses Act of 2018 (Nov. 19, 2018). For the same reasons, NASAA opposed unsuccessful efforts by the SEC in 2020 to establish a federal broker-dealer exemption for private placement finders. *See* NASAA, NASAA Outlines Opposition to SEC's Proposed Federal Broker-Dealer Exemption for Private Placement Finders (Nov. 13, 2020). *See also* NASAA, NASAA Letter to Committee Leadership Regarding Opportunities to Strengthen Diversity in Our Capital-Markets (Dec. 12, 2022); NASAA, NASAA Letter to Appropriations Committee Leadership Regarding Securities Policy Riders (Dec. 1, 2022); NASAA, NASAA 2022 Enforcement Report Based on an Analysis of 2021 Data (Sept. 2022) at 7 ("In 2021, U.S. members were highly successful in fulfilling their gatekeeper role. They denied 232 applications for licensure (an increase of 76% from 2020), conditioned the approval of 278 applications (an increase of 67% from 2020) and suspended 26 securities professionals (an increase of 13% from 2020). They also revoked licenses of 50 securities professionals and barred 61 individuals from the industry."); *see* Maryland Securities Division Commissioner Melanie Senter Lubin, Written Testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs Regarding Protecting Investors and Savers: Understanding Scams and Risks in Crypto and Securities Markets (July 28, 2022).

Appendix

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H.R. ____

To establish a way for investors to evaluate whether a Regulation D securities offering is a scam and make Regulation D securities markets more transparent for the benefit of all market participants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

-------- introduced the following bill; which was referred to the Committee on--------

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A BILL

To establish a way for investors to evaluate whether a Regulation D securities offering is a scam and make Regulation D securities markets more transparent for the benefit of all market participants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the ''Fixing Our Risky Markets Disclosures Act of 2025'' or the "FORM D Act of 2025".

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term "Commission" means the U.S. Securities and Exchange Commission.

SEC. 3. FORM D IMPROVEMENTS.

(a) ENHANCED FORM D DATA.—Not later than one (1) year after the enactment of this Act, the Commission shall amend Regulation D (sections 230.500 through 230.508 of title 17, Code of Federal Regulations) to make the following improvements:

(1) ITEM 4, INDUSTRY GROUP.—Create a "Real Estate" category. Require disclosure about the type of real estate such as residential, commercial, construction, finance, REITs, and other, the legal entity, if any, used to purchase the real estate, and the ownership structure such as single- or fractionalized ownership and member- or manager-managed. If 'other' is selected, require a brief explanation of the type;

(2) ITEM 5, ISSUER SIZE.—Eliminate the Decline to Disclose option;

(3) ITEM 9, TYPE(S) OF SECURITIES OFFERED.—Make such changes as are necessary to capture securities that are issued or traded using distributed ledger technologies that would not be captured already by Item 9;

(4) ITEM 12, SALES COMPENSATION.—Retitle as "Sales Compensation and Fees" or a similar such title that captures fees. Make such changes as are necessary in Item 12 and in other items to capture fees and other information associated with the investment advisers, if any, who serve the issuer. Add a checkbox to check if a promoter has received sales compensation or fees. Add a checkbox to check if a promoter received compensation or fees from the proceeds disclosed in Item 16, Use of Proceeds;

(5) ITEM 15, SALES COMMISSIONS AND FINDERS FEES' EXPENSES.—Retitle as "Sales Commissions, Finders Fees' Expenses, and Investment Advisers' Fees". Add a box for investment advisers' fees and a checkbox to indicate if applicable that the fees are an estimate;

(6) ITEM 16, USE OF PROCEEDS.—Amend Item 16 to capture the amount of the proceeds, if any, used to pay the compensation or fees of employees or contractors of the issuer. Add a box for the amount, a checkbox to indicate if applicable that the amount is an estimate, and a box for a clarification of the response if necessary;

(7) INVESTMENT ADVISERS.—Amend Form D as needed to collect information regarding investment advisers to the issuer,

including at minimum name, principal business address, IARD number, status (such as exempt reporting adviser), and type of investment adviser (such as venture fund adviser or private fund adviser);

(8) SYMBOL.—Amend Form D as needed to collect the symbol or other tracker used for the security if it is traded on an exchange, alternative trading system or a similar platform or system;

(9) ONLINE LOCATION.—Amend Form D as needed to collect the issuer's website or, if different, the primary online location from which it publishes information about its business results and performance; and

(10) BENEFICIAL OWNERSHIP.—Amend Form D as needed to collect information regarding the beneficial owners of 10% or more of a class of an issuer's equity securities.

(b) ENHANCED TIMING OF FORM D DATA.—Not later than one (1) year after the enactment of this Act, the Commission shall amend Regulation D (sections 230.500 through 230.508 of title 17, Code of Federal Regulations) to make the following improvements:

(1) AMEND FORM D FOR ADVANCE PURPOSES.—Amend Form D as may be necessary so that issuers of Rule 506(b) and Rule 506(c) offerings can use it and file it with the Commission as an Advance Form D;

(2) TIMING.—Advance Form Ds for Rule 506(b) offerings shall be filed with the Commission before any sale of such securities. Advance Forms Ds for Rule 506(c) offerings shall be filed with the Commission at least 15 calendar days before the earlier of the first use of general solicitation or general advertising for the offering, or the sale of such securities;

(3) DISCLOSURES IN ADVANCE FORM D.—In amending Regulation D, the Commission shall determine the information needed from each issuer in each Advance Form D to allow the Commission to understand the overall marketplace for Rule 506(b) and Rule 506(c) securities offerings and amend Form D as needed to capture such information; and require issuers to provide all information solicited by Form D that is available at the time they file the Advance Form D; and

(4) FORM D SUBMISSION.—In amending Regulation D, the Commission shall require issuers to submit a Form D not later than 15 calendar days after the first sale of the securities in the offering. The Form D submission shall function as an amendment to the Advance Form D. Any interim, partial amendments to the Advance Form D, such as an amendment to correct a material mistake of fact, shall not constitute the filing of the full Form D.

(c) ENHANCED FORM D RECORD.—Not later than one (1) year after the enactment of this Act, the Commission shall amend Regulation D (sections 230.500 through 230.508 of title 17, Code of Federal Regulations) to define the term "termination of an offering" and require Rule 506(b) and Rule 506(c) issuers to file a closing amendment to their Form D not later than 30 calendar days after the termination of the offering unless the Form D indicated that it would serve as the closing amendment as well to Form D for the offering.

SEC. 4. CONSEQUENCES FOR NONCOMPLIANCE.

(a) LOSS OF EXEMPTION.—Not later than one (1) year after the enactment of this Act, the Commission shall amend Regulation D (sections 230.500 through 230.508 of title 17, Code of Federal Regulations) to specify that the failure of an issuer who offers securities in reliance on sections 230.506(b) or 230.506(c) of title 17, Code of Federal Regulations to comply with the Form D requirements, as amended, shall result in the loss of the exemption from registration for the offering for which the issuer failed to comply.

xx

[~118H835]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to codify certain qualifications of individuals as accredited investors for purposes of the securities laws.

IN THE HOUSE OF REPRESENTATIVES

Mr. HILL of Arkansas introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to codify certain qualifications of individuals as accredited investors for purposes of the securities laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Investment Opportunities for Professional Experts Act".

SEC. 2. DEFINITION OF ACCREDITED INVESTOR.

(a) IN GENERAL.—Section 2(a)(15) of the Securities Act of 1933 (15 U.S.C. 77b(a)(15)) is amended—

(1) by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (F), respectively; and

(2) in subparagraph (A) (as so redesignated), by striking "; or" and inserting a semicolon, and inserting after such subparagraph the following:

"(B) with respect to a proposed transaction, any natural person whose individual net worth, or joint net worth with that person's spouse or spousal equivalent, exceeds $1,000,000 (which amount, along with the amounts set forth in subparagraph (C), shall be adjusted for inflation by the Commission every 5 years to the nearest $10,000 to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics) where, for purposes of calculating net worth under this subparagraph—

"(i) the person's primary residence shall not be included as an asset;

"(ii) indebtedness that is secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time of the transaction, shall not be included as a liability (except that if the amount of such indebtedness

outstanding at the time of the transaction exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess shall be included as a liability); and

"(iii) indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the primary residence at the time of the transaction shall be included as a liability;

"(C) any natural person who had an individual income in excess of $200,000 in each of the 2 most recent years or joint income with that person's spouse or spousal equivalent in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

"(D) any natural person who is currently licensed or registered as a broker or investment adviser by the Commission, a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934), or the securities division of a State, the District of Columbia, or a territory of the United States or the

equivalent division responsible for licensing or registration of individuals in connection with securities activities;

"(E) any natural person the Commission determines, by regulation, to have demonstrable education or job experience to qualify such person as having professional knowledge of a subject related to a particular investment, and whose education or job experience is verified by a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934); or".

(b) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall revise the definition of accredited investor under Regulation D (17 CFR 230.501 et seq.) to conform with the amendments made by subsection (a).

[118H1579]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 and the Dodd-Frank Wall Street Reform and Consumer Protection Act with respect to the definition of accredited investor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HUIZENGA introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 and the Dodd-Frank Wall Street Reform and Consumer Protection Act with respect to the definition of accredited investor, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accredited Investor Definition Review Act".

SEC. 2. CERTIFICATIONS, DESIGNATIONS, AND CREDENTIALS UNDER THE DEFINITION OF ACCREDITED INVESTOR.

Section 2(a)(15) of the Securities Act of 1933 (15 U.S.C. 77b(a)(15)) is amended—

(1) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(2) in subparagraph (A), as so redesignated, by striking "adviser; or" and inserting "adviser;";

(3) in subparagraph (B), as so redesignated, by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(C) an individual holding such certifications, designations, or credentials as the Commission determines necessary or appropriate in the public interest or for the protection of investors, where such list of certifications, designations, or credentials shall be no less broad than those certifications, designations, or credentials described in the amendments made to section 230.501 of title 17, Code of Federal Regulations, by the final rule of the Commission titled 'Accredited Investor Definition' (85 Fed. Reg. 64234; published October 9, 2020).".

SEC. 3. PERIODIC REVIEW OF CERTIFICATIONS, DESIGNATIONS, AND CREDENTIALS.

Section 413(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 77b note) is amended by adding at the end the following:

"(3) PERIODIC REVIEW OF CERTIFICATIONS, DESIGNATIONS, AND CREDENTIALS.—Not later than 18 months after the date of the enactment of this paragraph and not less frequently than once every 5 years thereafter, the Commission shall—

"(A) review the list of certifications, designations, and credentials accepted with respect to meeting the requirements of the definition of 'accredited investor' under section 2(a)(15) of the Securities Act of 1933 (15 U.S.C. 77b(a)(15)) and rules issued pursuant to such section;

"(B) add such certifications, designations, and credentials to such list as the Commission determines are substantially similar in measuring the financial sophistication, knowledge, and experience in financial matters of an individual to the certifications, designations, and credentials included on such list at the time of such review; and

"(C) adjust or modify such list as the Commission determines necessary or appropriate in the public interest or for the protection of investors.".

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[118H1548]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to specify that actions of the Advocate for Small Business Capital Formation are not a collection of information under the Paperwork Reduction Act.

IN THE HOUSE OF REPRESENTATIVES

Mrs. KIM introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Exchange Act of 1934 to specify that actions of the Advocate for Small Business Capital Formation are not a collection of information under the Paperwork Reduction Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving Access to Small Business Information Act".

SEC. 2. EXCLUSION FROM THE PAPERWORK REDUCTION ACT.

Section 4(j) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(j)) is amended by adding at the end the following:

"(10) EXCLUSION FROM THE PAPERWORK REDUCTION ACT.—

"(A) IN GENERAL.—Actions taken by the Advocate for Small Business Capital Formation under this subsection shall not be a 'collection of information' for purposes of subchapter I of chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to the requirements under subsections (c)(1), (c)(4), and (i) of section 3506 of such title and section 3507(a)(1)(A) of such title, except that the Commission shall not be required—

"(i) to submit a collection of information by the Advocate to the Director of the Office of Management and Budget, as described under section 3506(c)(1)(A) of such title;

"(ii) to display a control number on a collection of information by the Advocate, as described under section 3506(c)(1)(B)(i) of such title (or to inform a person receiving a collection of information from the Advocate that the collection of information needs to display a control number, as described under section 3506(c)(1)(B)(iii)(V) of such title); or

"(iii) to indicate a collection of information by the Advocate is in accordance with the clearance requirements of section 3507 of such title, as described under section 3506(c)(1)(B)(ii) of such title.".

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[118H2792]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To require the Securities and Exchange Commission to carry out a study and rulemaking on the definition of the term "small entity" for purposes of the securities laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. WAGNER introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Securities and Exchange Commission to carry out a study and rulemaking on the definition of the term "small entity" for purposes of the securities laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Entity Update Act".

SEC. 2. STUDIES, REPORTS, AND RULES REGARDING SMALL ENTITIES.

(a) DEFINITIONS.—In this section—

(1) the term "Commission" means the Securities and Exchange Commission; and

(2) the term "small entity"—

(A) has the meaning given the term in section 601 of title 5, United States Code, with respect to the activities of the Commission; and

(B) includes any definition established by the Commission of the term "small business", "small organization", or "small governmental jurisdiction" under paragraph (3), (4), or (5), respectively, of section 601 of title 5, United States Code, with respect to the activities of the Commission.

(b) STUDIES AND REPORTS.—Not later than 1 year after the date of enactment of this Act, and again 5 years thereafter, the Commission shall—

(1) conduct a study of the definition of the term "small entity" with respect to the activities of the Commission for the purposes of chapter 6 of title 5, United States Code, which shall consider—

(A) the extent to which the definition of the term "small entity", as in effect during the period in which the study is conducted, aligns

with the findings and declarations made under section 2(a) of the Regulatory Flexibility Act (5 U.S.C. 601 note);

(B) the amount by which financial markets in the United States have grown since the last time the Commission amended the definition of the term "small entity", if applicable; and

(C) how the Commission should define the term "small entity" to ensure that a meaningful number of entities would fall under that definition; and

(2) submit to Congress a report that includes—

(A) the results of the applicable study conducted under paragraph (1); and

(B) specific and detailed recommendations on the ways in which the Commission could amend the definition of the term "small entity" to—

(i) be consistent with the results described in subparagraph (A); and

(ii) expand the number of entities covered by such definition.

(c) RULEMAKING.—After the completion of each study required under subsection (b), the Commission shall,

subject to public notice and comment, revise the rules of the Commission consistent with the results of such study.

(d) INFLATION ADJUSTMENTS.—As soon as practicable following the date of enactment of this Act, and every 5 years thereafter, the Commission shall adjust all dollar figures under the definition of small entity established by the Commission to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

[~118H2797]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To require certification examinations for accredited investors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. FLOOD introduced the following bill; which was referred to the Committee on _____

A BILL

To require certification examinations for accredited investors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Opportunity for All Investors Act of 2025".

SEC. 2. CERTIFICATION EXAMINATIONS FOR ACCREDITED INVESTORS.

(a) IN GENERAL.—The Commission shall revise the definition of "accredited investor" under Regulation D

(section 230.501 of title 15, Code of Federal Regulations) to include any natural person who is certified through the examination required under subsection (b).

(b) ESTABLISHMENT OF EXAMINATION.—Not later than 1 year after the date of the enactment of this Act, the Commission shall establish an examination (including a test, certification, or examination program)—

(1) to certify an individual as an accredited investor; and

(2) that—

(A) is designed with an appropriate level of difficulty such that an individual with financial sophistication would be unlikely to fail; and

(B) includes methods to determine whether an individual seeking to be certified as an accredited investor demonstrates competency with respect to—

(i) the different types of securities;

(ii) the disclosure requirements under the securities laws applicable to issuers and private companies as compared to public companies;

(iii) corporate governance;

(iv) financial statements and the components of such statements;

(v) aspects of unregistered securities, securities issued by private companies, and investments into private funds, including risks associated with—

(I) limited liquidity;

(II) limited disclosures;

(III) variance in valuation methods;

(IV) information asymmetry;

(V) leverage risks;

(VI) concentration risk; and

(VII) longer investment horizons;

(vi) potential conflicts of interest, when the interests of the financial professionals and their clients are misaligned or when their professional responsibilities are compromised by financial motivations; and

(vii) other criteria the Commission determines necessary or appropriate in the public interest or for the protection of investors.

(c) ADMINISTRATION.—Beginning not later than 180 days after the date the examination is established under subsection (b), such examination shall be administered and offered free of charge to the public by a registered

national securities association under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3).

(d) COMMISSION DEFINED.—In this section, the term "Commission" means the Securities and Exchange Commission.

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[~118H2793]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to expand the ability to use testing the waters and confidential draft registration submissions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. WAGNER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to expand the ability to use testing the waters and confidential draft registration submissions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Encouraging Public Offerings Act of 2025".

SEC. 2. EXPANDING TESTING THE WATERS.

Section 5(d) of the Securities Act of 1933 (15 U.S.C. 77e(d)) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(1) IN GENERAL.—Notwithstanding";

(2) by striking "an emerging growth company or any person authorized to act on behalf of an emerging growth company" and inserting "an issuer or any person authorized to act on behalf of an issuer"; and

(3) by adding at the end the following:

"(2) ADDITIONAL REQUIREMENTS.—

"(A) IN GENERAL.—The Commission may promulgate regulations, subject to public notice and comment, to impose such other terms, conditions, or requirements on the engaging in oral or written communications described under paragraph (1) by an issuer other than an emerging growth company as the Commission determines appropriate.

"(B) REPORT TO CONGRESS.—Prior to any rulemaking described under subparagraph (A), the Commission shall submit to Congress a report containing a list of the findings supporting the basis of the rulemaking.".

SEC. 3. CONFIDENTIAL REVIEW OF DRAFT REGISTRATION STATEMENTS.

Section 6(e) of the Securities Act of 1933 (15 U.S.C. 77f(e)) is amended—

(1) in the heading, by striking "EMERGING GROWTH COMPANIES" and inserting "CONFIDENTIAL REVIEW OF DRAFT REGISTRATION STATEMENTS";

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Any issuer may, with respect to an initial public offering, initial registration of a security of the issuer under section 12(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(b)), or follow-on offering, confidentially submit to the Commission a draft registration statement, for confidential nonpublic review by the staff of the Commission prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed with the Commission not later than—

"(A) in the case of an initial public offering, 10 days before the effective date of such registration statement;

"(B) in the case of an initial registration of a security of the issuer under such section 12(b), 10 days before listing on an exchange; or

"(C) in the case of a follow-on offering, 48 hours before the effective date of such registration statement.

"(2) FOLLOW-ON OFFERING DEFINED.—In this subsection, the term 'follow-on offering' means an offering by an issuer during the 12-month period beginning on the effective date of the initial public offering of the issuer or the initial registration of a security of the issuer under section 12(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(b)).

"(3) ADDITIONAL REQUIREMENTS.—

"(A) IN GENERAL.—The Commission may promulgate regulations, subject to public notice and comment, to impose such other terms, conditions, or requirements on the submission of draft registration statements described under this subsection by an issuer other than an emerging growth company as the Commission determines appropriate.

"(B) REPORT TO CONGRESS.—Prior to any rulemaking described under subparagraph (A), the Commission shall submit to Congress a re-

port containing a list of the findings supporting the basis of the rulemaking.''.

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[118H2610]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to specify certain registration statement contents for emerging growth companies, to permit issuers to file draft registration statements with the Securities and Exchange Commission for confidential review, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. NUNN of Iowa introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Exchange Act of 1934 to specify certain registration statement contents for emerging growth companies, to permit issuers to file draft registration statements with the Securities and Exchange Commission for confidential review, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REGISTRATION STATEMENTS.

Section 12(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(b)) is amended—

(1) in paragraph (1)(K), by striking "years," and inserting "years (or, in the case of an emerging growth company, not more than the two preceding years),"; and

(2) by adding at the end the following:

"Any issuer may confidentially submit to the Commission a draft registration statement for confidential nonpublic review by the staff of the Commission prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed with the Commission not later than 10 days before listing on a national securities exchange. Notwithstanding any other provision of this title, the Commission shall not be compelled to disclose any information provided to or obtained by the Commission pursuant to this subsection. For purposes of section 552 of title 5, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. Information described in or obtained pursuant to this subsection shall be deemed to constitute confidential information for purposes of section 24.".

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[118H2608]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Federal securities laws to specify the periods for which financial statements are required to be provided by an emerging growth company, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal securities laws to specify the periods for which financial statements are required to be provided by an emerging growth company, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINANCIAL STATEMENT REPORTING REQUIREMENTS FOR EMERGING GROWTH COMPANIES.

(a) SECURITIES ACT OF 1933.—Section 7(a)(2) of the Securities Act of 1933 (15 U.S.C. 77g(a)(2)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) need not present acquired company financial statements or information otherwise required under section 210.3-05 or section 210.8-04 of title 17, Code of Federal Regulations, or any successor thereto, for any period prior to the earliest audited period of the emerging growth company presented in connection with its initial public offering and, thereafter, in no event shall an issuer that was an emerging growth company but is no longer an emerging growth company be required to present financial statements of the issuer (or acquired company financial statements or information otherwise required under section 210.3-

05 or section 210.8-04 of title 17, Code of Federal Regulations, or any successor thereto) for any period prior to the earliest audited period of the emerging growth company presented in connection with its initial public offering; and".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 12(b)(1)(K) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(b)(1)(K)) is amended by striking "firm;" and inserting "firm, provided that the application of an emerging growth company need not present acquired company financial statements or information otherwise required under section 210.3-05 or section 210.8-04 of title 17, Code of Federal Regulations, or any successor thereto, for any period prior to the earliest audited period of the emerging growth company presented in connection with its application and, thereafter, in no event shall an issuer that was an emerging growth company but is no longer an emerging growth company be required to present financial statements of the issuer (or acquired company financial statements or information otherwise required under section 210.3-05 or section 210.8-04 of title 17, Code of Federal Regulations, or any successor thereto) for any period prior to the earliest audited period of the emerging growth company presented in connection with any application under subsection (b) of this section;".

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[118H2795]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to require issuers with a multi-class stock structure to make certain disclosures in any proxy or consent solicitation material, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MEEKS introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Exchange Act of 1934 to require issuers with a multi-class stock structure to make certain disclosures in any proxy or consent solicitation material, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhancing Multi-Class Share Disclosures Act".

SEC. 2. DISCLOSURE RELATING TO MULTI-CLASS SHARE STRUCTURES.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following:

"(l) DISCLOSURE RELATING TO MULTI-CLASS SHARE STRUCTURES.—

"(1) DISCLOSURE.—The Commission shall, by rule, require each issuer with a multi-class share structure to disclose the information described in paragraph (2) in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer, or any other filing as the Commission determines appropriate.

"(2) CONTENT.—A disclosure made under paragraph (1) shall include, with respect to each person who is a director, director nominee, or named executive officer of the issuer, or who is the beneficial owner of securities with 5 percent or more of the total combined voting power of all classes of securities entitled to vote in the election of directors—

"(A) the number of shares of all classes of securities entitled to vote in the election of directors beneficially owned by such person, expressed as a percentage of the total number of

the outstanding securities of the issuer entitled to vote in the election of directors; and

"(B) the amount of voting power held by such person, expressed as a percentage of the total combined voting power of all classes of the securities of the issuer entitled to vote in the election of directors.

"(3) MULTI-CLASS SHARE STRUCTURE.—In this subsection, the term 'multi-class share structure' means a capitalization structure that contains 2 or more classes of securities that have differing amounts of voting rights in the election of directors.".

I

119TH CONGRESS
1ST SESSION

H. R. 1469

To create an interdivisional taskforce at the Securities and Exchange Commission for senior investors.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 2025

Mr. GOTTHEIMER (for himself and Mrs. WAGNER) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To create an interdivisional taskforce at the Securities and Exchange Commission for senior investors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Senior Investor Initiative Act of 2025" or the "Senior Security Act of 2025".

SEC. 2. SENIOR INVESTOR TASKFORCE.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:

"(l) SENIOR INVESTOR TASKFORCE.—

"(1) ESTABLISHMENT.—There is established within the Commission the Senior Investor Taskforce (in this subsection referred to as the 'Taskforce').

"(2) DIRECTOR OF THE TASKFORCE.—The head of the Taskforce shall be the Director, who shall—

"(A) report directly to the Chairman; and

"(B) be appointed by the Chairman, in consultation with the Commission, from among individuals—

"(i) currently employed by the Commission or from outside of the Commission; and

"(ii) having experience in advocating for the interests of senior investors.

"(3) STAFFING.—The Chairman shall ensure that—

"(A) the Taskforce is staffed sufficiently to carry out fully the requirements of this subsection; and

"(B) such staff shall include individuals from the Division of Enforcement, Office of

Compliance Inspections and Examinations, and Office of Investor Education and Advocacy.

"(4) NO COMPENSATION FOR MEMBERS OF TASKFORCE.—All members of the Taskforce appointed under paragraph (2) or (3) shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(5) MINIMIZING DUPLICATION OF EFFORTS.—In organizing and staffing the Taskforce, the Chairman shall take such actions as may be necessary to minimize the duplication of efforts within the divisions and offices described under paragraph (3)(B) and any other divisions, offices, or taskforces of the Commission.

"(6) FUNCTIONS OF THE TASKFORCE.—The Taskforce shall—

"(A) identify challenges that senior investors encounter, including problems associated with financial exploitation and cognitive decline;

"(B) identify areas in which senior investors would benefit from changes in the regulations of the Commission or the rules of self-regulatory organizations;

"(C) coordinate, as appropriate, with other offices within the Commission, other taskforces that may be established within the Commission, self-regulatory organizations, and the Elder Justice Coordinating Council; and

"(D) consult, as appropriate, with State securities and law enforcement authorities, State insurance regulators, and other Federal agencies.

"(7) REPORT.—The Taskforce, in coordination, as appropriate, with the Office of the Investor Advocate and self-regulatory organizations, and in consultation, as appropriate, with State securities and law enforcement authorities, State insurance regulators, and Federal agencies, shall issue a report every 2 years to the Committee on Banking, Housing, and Urban Affairs and the Special Committee on Aging of the Senate and the Committee on Financial Services of the House of Representatives, the first of which shall not be issued until after the report described in section 3 of the National Senior Investor Initiative Act of 2025 has been issued and considered by the Taskforce, containing—

"(A) appropriate statistical information and full and substantive analysis;

"(B) a summary of recent trends and innovations that have impacted the investment landscape for senior investors;

"(C) a summary of regulatory initiatives that have concentrated on senior investors and industry practices related to senior investors;

"(D) key observations, best practices, and areas needing improvement, involving senior investors identified during examinations, enforcement actions, and investor education outreach;

"(E) a summary of the most serious issues encountered by senior investors, including issues involving financial products and services;

"(F) an analysis with regard to existing policies and procedures of brokers, dealers, investment advisers, and other market participants related to senior investors and senior investor-related topics and whether these policies and procedures need to be further developed or refined;

"(G) recommendations for such changes to the regulations, guidance, and orders of the Commission and self-regulatory organizations and such legislative actions as may be appro-

priate to resolve problems encountered by senior investors; and

"(H) any other information, as determined appropriate by the Director of the Taskforce.

"(8) REQUEST FOR REPORTS.—The Taskforce shall make any report issued under paragraph (7) available to a Member of Congress who requests such a report.

"(9) SUNSET.—The Taskforce shall terminate after the end of the 10-year period beginning on the date of the enactment of this subsection.

"(10) SENIOR INVESTOR DEFINED.—For purposes of this subsection, the term 'senior investor' means an investor over the age of 65.

"(11) USE OF EXISTING FUNDS.—The Commission shall use existing funds to carry out this subsection.".

SEC. 3. GAO STUDY.

(a) STUDY.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress and the Senior Investor Taskforce the results of a study of financial exploitation of senior citizens.

(b) CONTENTS.—The study required under subsection (a) shall include information with respect to—

(1) economic costs of the financial exploitation of senior citizens—

(A) associated with losses by victims that were incurred as a result of the financial exploitation of senior citizens;

(B) incurred by State and Federal agencies, law enforcement and investigatory agencies, public benefit programs, public health programs, and other public programs as a result of the financial exploitation of senior citizens;

(C) incurred by the private sector as a result of the financial exploitation of senior citizens; and

(D) any other relevant costs that—

(i) result from the financial exploitation of senior citizens; and

(ii) the Comptroller General determines are necessary and appropriate to include in order to provide Congress and the public with a full and accurate understanding of the economic costs resulting from the financial exploitation of senior citizens in the United States;

(2) frequency of senior financial exploitation and correlated or contributing factors—

(A) information about percentage of senior citizens financially exploited each year; and

(B) information about factors contributing to increased risk of exploitation, including such factors as race, social isolation, income, net worth, religion, region, occupation, education, home-ownership, illness, and loss of spouse; and

(3) policy responses and reporting of senior financial exploitation—

(A) the degree to which financial exploitation of senior citizens unreported to authorities;

(B) the reasons that financial exploitation may be unreported to authorities;

(C) to the extent that suspected elder financial exploitation is currently being reported—

(i) information regarding which Federal, State, and local agencies are receiving reports, including adult protective services, law enforcement, industry, regulators, and professional licensing boards;

(ii) information regarding what information is being collected by such agencies; and

(iii) information regarding the actions that are taken by such agencies upon receipt of the report and any limits on the agencies' ability to prevent exploitation, such as jurisdictional limits, a lack of expertise, resource challenges, or limiting criteria with regard to the types of victims they are permitted to serve;

(D) an analysis of gaps that may exist in empowering Federal, State, and local agencies to prevent senior exploitation or respond effectively to suspected senior financial exploitation; and

(E) an analysis of the legal hurdles that prevent Federal, State, and local agencies from effectively partnering with each other and private professionals to effectively respond to senior financial exploitation.

(c) SENIOR CITIZEN DEFINED.—For purposes of this section, the term "senior citizen" means an individual over the age of 65.

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[118H2812]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To require the Comptroller General of the United States to carry out a study of the costs associated with small- and medium-sized companies to undertake initial public offerings.

IN THE HOUSE OF REPRESENTATIVES

Mr. HIMES introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Comptroller General of the United States to carry out a study of the costs associated with small- and medium-sized companies to undertake initial public offerings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Market IPO Underwriting Cost Act".

SEC. 2. STUDY ON IPO FEES.

(a) STUDY.—The Comptroller General of the United States, in consultation with the Securities and Exchange Commission and the Financial Industry Regulatory Authority, shall carry out a study of the costs associated with small- and medium-sized companies to undertake initial public offerings ("IPOs"). In carrying out such study, the Comptroller General shall—

(1) consider the direct and indirect costs of an IPO, including—

(A) fees of accountants, underwriters, and any other outside advisors with respect to the IPO;

(B) compliance with Federal and State securities laws at the time of the IPO; and

(C) such other IPO-related costs as the Comptroller General may consider;

(2) compare and analyze the costs of an IPO with the costs of obtaining alternative sources of financing and of liquidity;

(3) consider the impact of such costs on capital formation;

(4) analyze the impact of these costs on the availability of public securities of small- and medium-sized companies to retail investors; and

(5) analyze trends in IPOs over a time period the Comptroller General determines is appropriate to analyze IPO pricing practices, considering—

(A) the number of IPOs;

(B) how costs for IPOs have evolved over time for underwriters, investment advisory firms, and other professions for services in connection with an IPO;

(C) the number of brokers and dealers active in underwriting IPOs;

(D) the different types of services that underwriters and related persons provide before and after a small- or medium-sized company IPO and the factors impacting IPOs costs;

(E) changes in the costs and availability of investment research for small- and medium-sized companies; and

(F) the impacts of litigation and its costs on being a public company.

(b) REPORT.—Not later than the end of the 360-day period beginning on the date of the enactment of this Act, the Comptroller General shall issue a report to the Congress containing all findings and determinations made in carrying out the study required under subsection (a) and

any administrative or legislative recommendations the Comptroller General may have.

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[118H2796]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to require the Advocate for Small Business Capital Formation to provide educational resources and host events to promote capital raising options for traditionally underrepresented small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. WATERS introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Exchange Act of 1934 to require the Advocate for Small Business Capital Formation to provide educational resources and host events to promote capital raising options for traditionally underrepresented small businesses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Promoting Opportunities for Non-Traditional Capital Formation Act".

SEC. 2. PROMOTING CAPITAL RAISING OPTIONS FOR TRADITIONALLY UNDERREPRESENTED SMALL BUSINESSES.

Section 4(j)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(j)(4)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(I) provide educational resources and host events to raise awareness of capital raising options for—

"(i) underrepresented small businesses, including women-owned and minority-owned small businesses;

"(ii) businesses located in rural areas; and

"(iii) small businesses affected by hurricanes or other natural disasters; and

"(J) at least annually, meet with representatives of State securities commissions to discuss opportunities for collaboration and coordination with respect to efforts to assist small businesses and small business investors.".

[~118H1807]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To provide for the electronic delivery of certain regulatory document required under the securities laws.

IN THE HOUSE OF REPRESENTATIVES

Mr. HUIZENGA introduced the following bill; which was referred to the Committee on _____

A BILL

To provide for the electronic delivery of certain regulatory document required under the securities laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving Disclosure for Investors Act of 2025".

SEC. 2. ELECTRONIC DELIVERY.

(a) PROMULGATION OF RULES.—Not later than 180 days after the date of the enactment of this section, the Securities and Exchange Commission shall propose and,

not later than 1 year after the date of the enactment of this section, the Commission shall finalize, rules, regulations, amendments, or interpretations, as appropriate, to allow a covered entity to satisfy the entity's obligation to deliver regulatory documents required under the securities laws to investors using electronic delivery.

(b) REQUIRED PROVISIONS.—Rules, regulations, amendments, or interpretations the Commission promulgates pursuant to subsection (a) shall:

(1) With respect to investors that do not receive all regulatory documents by electronic delivery, provide for—

(A) delivery of an initial communication in paper form regarding electronic delivery;

(B) a transition period not to exceed 180 days until such regulatory documents are delivered to such investors by electronic delivery; and

(C) during a period not to exceed 2 years following the transition period set forth in subparagraph (B), delivery of an annual notice in paper form solely reminding such investors of the ability to opt out of electronic delivery at any time and receive paper versions of regulatory documents.

(2) Set forth requirements for the content of the initial communication described in paragraph (1)(A).

(3) Set forth requirements for the timing of delivery of a notice of website availability of regulatory documents and the content of the appropriate notice described in subsection (f)(3)(B).

(4) Provide a mechanism for investors to opt out of electronic delivery at any time and receive paper versions of regulatory documents.

(5) Require measures reasonably designed to identify and remediate failed electronic deliveries of regulatory documents.

(6) Set forth minimum requirements regarding readability and retainability for regulatory documents that are delivered electronically.

(7) For covered entities other than brokers, dealers, investment advisers registered with the Commission, and investment companies, require measures reasonably designed to ensure the confidentiality of personal information in regulatory documents that are delivered to investors electronically.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as altering the substance or timing

of any regulatory document obligation under the securities laws or regulations of a self-regulatory organization.

(d) TREATMENT OF REVISIONS NOT COMPLETED IN A TIMELY MANNER.—If the Commission fails to finalize the rules, regulations, amendments, or interpretations required under subsection (a) before the date specified in such subsection—

(1) a covered entity may deliver regulatory documents using electronic delivery in accordance with subsections (b) and (c); and

(2) such electronic delivery shall be deemed to satisfy the obligation of the covered entity to deliver regulatory documents required under the securities laws.

(e) OTHER REQUIRED ACTIONS.—

(1) REVIEW OF RULES.—The Commission shall—

(A) within 180 days of the date of enactment of this Act, conduct a review of the rules and regulations of the Commission to determine whether any such rules or regulations require delivery of written documents to investors; and

(B) within 1 year of the date of enactment of this Act, promulgate amendments to such rules or regulations to provide that any require-

ment to deliver a regulatory document "in writing" may be satisfied by electronic delivery.

(2) ACTIONS BY SELF-REGULATORY ORGANIZATIONS.—Each self-regulatory organization shall adopt rules and regulations, or amend the rules and regulations of the self-regulatory organization, consistent with this Act and consistent with rules, regulations, amendments, or interpretations finalized by the Commission pursuant to subsection (a).

(3) RULE OF APPLICATION.—This subsection shall not apply to a rule or regulation issued pursuant to a Federal statute if that Federal statute specifically requires delivery of written documents to investors.

(f) DEFINITIONS.—In this section:

(1) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(2) COVERED ENTITY.—The term "covered entity" means—

(A) an investment company (as defined in section 3(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)(1))) that is registered under such Act;

(B) a business development company (as defined in section 2(a) of the Investment Com-

pany Act of 1940 (15 U.S.C. 80a-2(a))) that has elected to be regulated as such under such Act;

(C) a registered broker or dealer (as such terms are defined, respectively, in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)));

(D) a registered municipal securities dealer (as defined in section 3(a)(30) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(30)));

(E) a registered government securities broker or government securities dealer (as such terms are defined, respectively, in paragraphs (43) and (44) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)));

(F) a registered investment adviser (as defined in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-1(a)(11)));

(G) a registered transfer agent (as defined in section 3(a)(25) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(25))); or

(H) a registered funding portal (as defined in the second paragraph (80) of section 3(a) of

the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

(3) ELECTRONIC DELIVERY.—The term "electronic delivery", with respect to regulatory documents, includes—

(A) the direct delivery of such regulatory document to an electronic address of an investor;

(B) the posting of such regulatory document to a website and direct electronic delivery of an appropriate notice of the availability of the regulatory document to the investor; and

(C) an electronic method reasonably designed to ensure receipt of such regulatory document by the investor.

(4) REGULATORY DOCUMENTS.—The term "regulatory documents" includes—

(A) prospectuses meeting the requirements of section 10(a) of the Securities Act of 1933 (15 U.S.C. 77j(a));

(B) summary prospectuses meeting the requirements of—

(i) section 230.498 of title 17, Code of Federal Regulations; or

(ii) section 230.498A of title 17, Code of Federal Regulations;

(C) statements of additional information, as described under section 270.30e-3(h)(2) of title 17, Code of Federal Regulations;

(D) annual and semi-annual reports to investors meeting the requirements of section 30(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-29(e));

(E) notices meeting the requirements under section 270.19a-1 of title 17, Code of Federal Regulations;

(F) confirmations and account statements meeting the requirements under section 240.10b of title 17, Code of Federal Regulations;

(G) proxy statements meeting the requirements under section 240.14a-3 of title 17, Code of Federal Regulations;

(H) privacy notices meeting the requirements of Regulation S-P under subpart A of part 248 of title 17, Code of Federal Regulations;

(I) affiliate marketing notices meeting the requirements of Regulation S-AM under sub-

part B of part 248 of title 17, Code of Federal Regulations; and

(J) all other regulatory documents required to be delivered by covered entities to investors under the securities laws and the rules and regulations of the Commission and the self-regulatory organizations.

(5) SECURITIES LAWS.—The term "securities laws" has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

(6) SELF-REGULATORY ORGANIZATION.—The term "self- regulatory organization" means—

(A) a self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)); and

(B) the Municipal Securities Rulemaking Board.

(7) WEBSITE.—The term "website" means an internet website or other digital, internet, or electronic-based information repository, such as a mobile application, to which an investor of a covered entity has been provided reasonable access.

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[~118H1553]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To require the Securities and Exchange Commission to revise rules relating to general solicitation or general advertising to allow for presentations or other communication made by or on behalf of an issuer at certain events, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LAWLER introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Securities and Exchange Commission to revise rules relating to general solicitation or general advertising to allow for presentations or other communication made by or on behalf of an issuer at certain events, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Helping Angels Lead Our Startups Act of 2025" or the "HALOS Act of 2025".

SEC. 2. CLARIFICATION OF GENERAL SOLICITATION.

(a) DEFINITIONS.—For purposes of this section and the revision of rules required under this section:

(1) ANGEL INVESTOR GROUP.—The term "angel investor group" means any group that—

(A) is composed of accredited investors interested in investing personal capital in early-stage companies;

(B) holds regular meetings and has defined processes and procedures for making investment decisions, either individually or among the membership of the group as a whole; and

(C) is neither associated nor affiliated with brokers, dealers, or investment advisers.

(2) ISSUER.—The term "issuer" means an issuer that is a business, is not in bankruptcy or receivership, is not an investment company, and is not a blank check, blind pool, or shell company.

(b) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Securities and Exchange Commission shall revise Regulation D (17 CFR 230.500 et seq.) to require that in carrying out the prohibition against general solicitation or general advertising contained in section 230.502(c) of title 17, Code of Federal Regulations, the prohibition shall not apply to a pres-

entation or other communication made by or on behalf of an issuer which is made at an event—

(1) sponsored by—

(A) the United States or any territory thereof, the District of Columbia, any State, a political subdivision of any State or territory, or any agency or public instrumentality of any of the foregoing;

(B) a college, university, or other institution of higher education;

(C) a nonprofit organization;

(D) an angel investor group;

(E) a venture forum, venture capital association, or trade association; or

(F) any other group, person, or entity as the Securities and Exchange Commission may determine by rule;

(2) where any advertising for the event does not reference any specific offering of securities by the issuer;

(3) the sponsor of which—

(A) does not make investment recommendations or provide investment advice to event attendees;

(B) does not engage in an active role in any investment negotiations between the issuer and investors attending the event;

(C) does not charge event attendees any fees other than reasonable administrative fees;

(D) does not receive any compensation for making introductions between investors attending the event and issuers, or for investment negotiations between such parties;

(E) makes readily available to attendees a disclosure not longer than one page in length, as prescribed by the Securities and Exchange Commission, describing the nature of the event and the risks of investing in the issuers presenting at the event; and

(F) does not receive any compensation with respect to such event that would require registration of the sponsor as a broker or a dealer under the Securities Exchange Act of 1934, or as an investment advisor under the Investment Advisers Act of 1940; and

(4) where no specific information regarding an offering of securities by the issuer is communicated or distributed by or on behalf of the issuer, other than—

(A) that the issuer is in the process of offering securities or planning to offer securities;

(B) the type and amount of securities being offered;

(C) the amount of securities being offered that have already been subscribed for; and

(D) the intended use of proceeds of the offering.

(c) RULE OF CONSTRUCTION.—Subsection (b) may only be construed as requiring the Securities and Exchange Commission to amend the requirements of Regulation D with respect to presentations and communications, and not with respect to purchases or sales.

(d) NO PRE-EXISTING SUBSTANTIVE RELATIONSHIP BY REASON OF EVENT.—Attendance at an event described under subsection (b) shall not qualify, by itself, as establishing a pre-existing substantive relationship between an issuer and a purchaser, for purposes of Rule 506(b).

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[~118H2627]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Investment Company Act of 1940 with respect to the authority of closed-end companies to invest in private funds.

IN THE HOUSE OF REPRESENTATIVES

Mrs. WAGNER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Investment Company Act of 1940 with respect to the authority of closed-end companies to invest in private funds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Increasing Investor Opportunities Act".

SEC. 2. CLOSED-END COMPANY AUTHORITY TO INVEST IN PRIVATE FUNDS.

(a) IN GENERAL.—Section 5 of the Investment Company Act of 1940 (15 U.S.C. 80a–5) is amended by adding at the end the following:

"(d) CLOSED-END COMPANY AUTHORITY TO INVEST IN PRIVATE FUNDS.—

"(1) IN GENERAL.—Except as otherwise prohibited or restricted by this Act (or any rule issued under this Act), the Commission may not prohibit or otherwise limit a closed-end company from investing any or all of the assets of the closed-end company in securities issued by private funds.

"(2) OTHER RESTRICTIONS ON COMMISSION AUTHORITY.—

"(A) IN GENERAL.—Except as otherwise prohibited or restricted by this Act (or any rule issued under this Act) or to the extent permitted by subparagraph (B), the Commission may not impose any condition on, restrict, or otherwise limit—

"(i) the offer to sell, or the sale of, securities issued by a closed-end company that invests, or proposes to invest, in securities issued by private funds; or

"(ii) the listing of the securities of a closed-end company described in clause (i) on a national securities exchange.

"(B) UNRELATED RESTRICTIONS.—The Commission may impose a condition on, restrict, or otherwise limit an activity described in clause (i) or (ii) of subparagraph (A) if that condition, restriction, or limitation is unrelated to the underlying characteristics of a private fund or the status of a private fund as a private fund.

"(3) APPLICATION.—Notwithstanding section 6(f), this subsection shall also apply to a closed-end company that elects to be treated as a business development company pursuant to section 54.".

(b) DEFINITION OF PRIVATE FUND.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)) is amended by adding at the end the following:

"(55) The term 'private fund' has the meaning given in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)).".

(c) TREATMENT BY NATIONAL SECURITIES EXCHANGES.—Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

"(m)(1) Except as otherwise prohibited or restricted by rules of the exchange that are consistent with section 5(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–5(d)), an exchange may not prohibit, condition, restrict, or impose any other limitation on the listing or trading of the securities of a closed-end company when the closed-end company invests, or may invest, some or all of the assets of the closed-end company in securities issued by private funds.

"(2) In this subsection—

"(A) the term 'closed-end company'—

"(i) has the meaning given the term in section 5(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–5(a)); and

"(ii) includes a closed-end company that elects to be treated as a business development company pursuant to section 54 of the Investment Company Act of 1940 (15 U.S.C. 80a–53); and

"(B) the term 'private fund' has the meaning given the term in section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a))).".

(d) INVESTMENT LIMITATION.—Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), in the second sentence, by striking "subparagraphs (A)(i) and (B)(i)" and inserting "subparagraphs (A)(i), (B)(i), and (C)"; and

(2) in paragraph (7)(D), by striking "subparagraphs (A)(i) and (B)(i)" and inserting "subparagraphs (A)(i), (B)(i), and (C)".

(e) RULES OF CONSTRUCTION.—

(1) Nothing in this section or the amendments made by this section may be construed to limit or amend any fiduciary duty owed to a closed-end company (as defined in section 5(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–5(a)(2))) or by an investment adviser (as defined under section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a))) to a closed-end company.

(2) Nothing in this section or the amendments made by this section may be construed to limit or amend the valuation, liquidity, or redemption requirements or obligations of a closed-end company (as defined in section 5(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–5(a)(2))) as required by the Investment Company Act of 1940.

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119TH CONGRESS
1ST SESSION

H. R. 1013

To amend the Federal securities laws to enhance 403(b) plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2025

Mr. LUCAS (for himself, Mr. GOTTHEIMER, Mr. FOSTER, and Mr. BARR) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To amend the Federal securities laws to enhance 403(b) plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Fairness for Charities and Educational Institutions Act of 2025".

SEC. 4102. ENHANCEMENT OF 403(b) PLANS.

(a) AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(11)) is amended to read as follows:

"(11) Any—

"(A) employee's stock bonus, pension, or profit-sharing trust which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1986;

"(B) custodial account meeting the requirements of section 403(b)(7) of such Code;

"(C) governmental plan described in section 3(a)(2)(C) of the Securities Act of 1933;

"(D) collective trust fund maintained by a bank consisting solely of assets of one or more—

"(i) trusts described in subparagraph (A);

"(ii) government plans described in subparagraph (C);

"(iii) church plans, companies, or accounts that are excluded from the definition of an investment company under paragraph (14) of this subsection; or

"(iv) plans which meet the requirements of section 403(b) of the Internal Revenue Code of 1986—

"(I) if—

"(aa) such plan is subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.);

"(bb) any employer making such plan available agrees to serve as a fiduciary for the plan with respect to the selection of the plan's investments among which participants can choose; or

"(cc) such plan is a governmental plan (as defined in section 414(d) of such Code); and

"(II) if the employer, a fiduciary of the plan, or another person acting on behalf of the employer reviews and approves each investment alternative offered under such plan described under subclause (I)(cc) prior to the investment being offered to participants in the plan; or

"(E) separate account the assets of which are derived solely from—

"(i) contributions under pension or profit-sharing plans which meet the re-

quirements of section 401 of the Internal Revenue Code of 1986 or the requirements for deduction of the employer's contribution under section 404(a)(2) of such Code;

"(ii) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of section 5 of the Securities Act of 1933 by section 3(a)(2)(C) of such Act;

"(iii) advances made by an insurance company in connection with the operation of such separate account; and

"(iv) contributions to a plan described in clause (iii) or (iv) of subparagraph (D).".

(b) AMENDMENTS TO THE SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended—

(1) by striking "beneficiaries, or (D)" and inserting "beneficiaries, (D) a plan which meets the requirements of section 403(b) of such Code (i) if (I) such plan is subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), (II) any employer making such plan

available agrees to serve as a fiduciary for the plan with respect to the selection of the plan's investments among which participants can choose, or (III) such plan is a governmental plan (as defined in section 414(d) of such Code), and (ii) if the employer, a fiduciary of the plan, or another person acting on behalf of the employer reviews and approves each investment alternative offered under any plan described under clause (i)(III) prior to the investment being offered to participants in the plan, or (E)";

(2) by striking "(C), or (D)" and inserting "(C), (D), or (E)"; and

(3) by striking "(iii) which is a plan funded" and all that follows through "retirement income account)." and inserting "(iii) in the case of a plan not described in subparagraph (D) or (E), which is a plan funded by an annuity contract described in section 403(b) of such Code".

(c) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(C)) is amended—

(1) by striking "or (iv)" and inserting "(iv) a plan which meets the requirements of section 403(b) of such Code (I) if (aa) such plan is subject to title

I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), (bb) any employer making such plan available agrees to serve as a fiduciary for the plan with respect to the selection of the plan's investments among which participants can choose, or (cc) such plan is a governmental plan (as defined in section 414(d) of such Code), and (II) if the employer, a fiduciary of the plan, or another person acting on behalf of the employer reviews and approves each investment alternative offered under any plan described under subclause (I)(cc) prior to the investment being offered to participants in the plan, or (v)";

(2) by striking "(ii), or (iii)" and inserting "(ii), (iii), or (iv)"; and

(3) by striking "(II) is a plan funded" and inserting "(II) in the case of a plan not described in clause (iv), is a plan funded".

(d) CONFORMING AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 12(g)(2)(H) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(2)(H)) is amended by striking "or (iii)" and inserting "(iii) a plan described in section 3(a)(12)(C)(iv) of this Act, or (iv)".

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[~118H2497]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To permit an issuer, when determining the market capitalization of the issuer for purposes of testing the significance of an acquisition or disposition, to include the value of all shares of the issuer.

IN THE HOUSE OF REPRESENTATIVES

Ms. SALAZAR introduced the following bill; which was referred to the Committee on _____

A BILL

To permit an issuer, when determining the market capitalization of the issuer for purposes of testing the significance of an acquisition or disposition, to include the value of all shares of the issuer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVOIDING ABERRATIONAL RESULTS IN REQUIREMENTS FOR ACQUISITION AND DISPOSITION FINANCIAL STATEMENTS.

The Securities and Exchange Commission shall revise section 210.1–02(w)(1)(i)(A) of title 17, Code of Federal

Regulations, to permit a registrant, in determining the significance of an acquisition or disposition described in such section 210.1–02(w)(1)(i)(A), to calculate the registrant's aggregate worldwide market value based on the applicable trading value, conversion value, or exchange value of all of the registrant's outstanding classes of stock (including preferred stock and non-traded common shares that are convertible into or exchangeable for traded common shares) and not just the voting and non-voting common equity of the registrant.

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[~118H2624]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To update the definition of an emerging growth company, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. STEIL introduced the following bill; which was referred to the Committee on _____

A BILL

To update the definition of an emerging growth company, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Helping Startups Continue To Grow Act".

SEC. 2. EMERGING GROWTH COMPANY CRITERIA.

(a) SECURITIES ACT OF 1933.—Section 2(a)(19) of the Securities Act of 1933 (15 U.S.C. 77b(a)(19)) is amended—

(1) by striking "$1,000,000,000" each place such term appears and inserting "$3,000,000,000";

(2) in subparagraph (B)—

(A) by striking "fifth" and inserting "10-year"; and

(B) by adding "or" at the end;

(3) in subparagraph (C), by striking "; or" and inserting a period; and

(4) by striking subparagraph (D).

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended, in the first paragraph (80)—

(1) by striking "$1,000,000,000" each place such term appears and inserting "$3,000,000,000";

(2) in subparagraph (B)—

(A) by striking "fifth" and inserting "10-year"; and

(B) by adding "or" at the end;

(3) in subparagraph (C), by striking "; or" and inserting a period; and

(4) by striking subparagraph (D).

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[~118H2606]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To require auditor independence standards of the Public Company Accounting Oversight Board and the Securities and Exchange Commission applicable to past audits of a company occurring before it was a public company to treat an auditor as independent if the auditor meets established professional standards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. MCCLAIN introduced the following bill; which was referred to the Committee on _____

A BILL

To require auditor independence standards of the Public Company Accounting Oversight Board and the Securities and Exchange Commission applicable to past audits of a company occurring before it was a public company to treat an auditor as independent if the auditor meets established professional standards, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUDITOR INDEPENDENCE FOR CERTAIN PAST AUDITS OCCURRING BEFORE AN ISSUER IS A PUBLIC COMPANY.

(a) AUDITOR INDEPENDENCE STANDARDS OF THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD.—Section 103 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7213) is amended by adding at the end the following:

"(e) AUDITOR INDEPENDENCE FOR CERTAIN PAST AUDITS OCCURRING BEFORE AN ISSUER IS A PUBLIC COMPANY.—With respect to an issuer that is a public company or an issuer that has filed a registration statement to become a public company, the auditor independence rules established by the Board with respect to audits occurring before the last fiscal year of the issuer completed before the issuer filed a registration statement to become a public company shall treat an auditor as independent if—

"(1) the auditor is independent under standards established by the American Institute of Certified Public Accountants applicable to certified public accountants in United States; or

"(2) with respect to a foreign issuer, the auditor is independent under comparable standards applicable to certified public accountants in the issuer's home country.".

(b) AUDITOR INDEPENDENCE STANDARDS OF THE SECURITIES AND EXCHANGE COMMISSION.—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1) is amended by adding at the end the following:

"(n) AUDITOR INDEPENDENCE FOR CERTAIN PAST AUDITS OCCURRING BEFORE AN ISSUER IS A PUBLIC COMPANY.—With respect to an issuer that is a public company or an issuer that has filed a registration statement to become a public company, the auditor independence rules established by the Commission under the securities laws with respect to audits occurring before the last fiscal year of the issuer completed before the issuer filed a registration statement to become a public company shall treat an auditor as independent if—

"(1) the auditor is independent under standards established by the American Institute of Certified Public Accountants applicable to certified public accountants in United States; or

"(2) with respect to a foreign issuer, the auditor is independent under comparable standards applicable to certified public accountants in the issuer's home country.".

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[~118H2576]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to expand the research report exception to include reports about any issuer that undertakes a proposed offering of public securities.

IN THE HOUSE OF REPRESENTATIVES

Mr. WILLIAMS of Texas introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to expand the research report exception to include reports about any issuer that undertakes a proposed offering of public securities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVISION OF RESEARCH.

Section 2(a)(3) of the Securities Act of 1933 (15 U.S.C. 77b(a)(3)) is amended—

(a) by striking "an emerging growth company" and inserting "an issuer";

(b) by striking ''the common equity'' and inserting ''any''; and

(c) by striking ''such emerging growth company'' and inserting ''such issuer''.

[~118H2605]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to exclude qualified institutional buyers and institutional accredited investors when calculating holders of a security for purposes of the mandatory registration threshold under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GARBARINO introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Exchange Act of 1934 to exclude qualified institutional buyers and institutional accredited investors when calculating holders of a security for purposes of the mandatory registration threshold under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSIONS FROM MANDATORY REGISTRATION THRESHOLD.

(a) IN GENERAL.—Section 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)) is amended—

(1) in paragraph (A)(i), by inserting after "persons" the following: "(that are not a qualified institutional buyer or an institutional accredited investor)"; and

(2) in paragraph (B), by inserting after "persons" the following: "(that are not a qualified institutional buyer or an institutional accredited investor)".

(b) NONAPPLICABILITY OF GENERAL EXEMPTIVE AUTHORITY.—Section 36 of the Securities Exchange Act of 1934 (15 U.S.C. 78mm) shall not apply to the matter inserted by the amendments made by subsection (a).

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[~118H2625]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To lower the aggregate market value of voting and non-voting common equity necessary for an issuer to qualify as a well-known seasoned issuer.

IN THE HOUSE OF REPRESENTATIVES

Mr. STEIL introduced the following bill; which was referred to the Committee on _____

A BILL

To lower the aggregate market value of voting and non-voting common equity necessary for an issuer to qualify as a well-known seasoned issuer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF WELL-KNOWN SEASONED ISSUER.

For purposes of the Federal securities laws, and regulations issued thereunder, an issuer shall be a "well-known seasoned issuer" if—

(1) the aggregate market value of the voting and non-voting common equity held by non-affiliates of the issuer is $75,000,000 or more (as determined under Form S–3 general instruction I.B.1. as in effect on the date of enactment of this Act); and

(2) the issuer otherwise satisfies the requirements of the definition of "well-known seasoned issuer" contained in section 230.405 of title 17, Code of Federal Regulations (as in effect on the date of enactment of this Act) without reference to any requirement in such definition relating to minimum worldwide market value of outstanding voting and non-voting common equity held by non-affiliates.

[~118H2603]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To require the Securities and Exchange Commission to revise certain thresholds related to smaller reporting companies, accelerated filers, and large accelerated filers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Securities and Exchange Commission to revise certain thresholds related to smaller reporting companies, accelerated filers, and large accelerated filers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SMALLER REPORTING COMPANY, ACCELERATED FILER, AND LARGE ACCELERATED FILER THRESHOLDS.

(a) SMALLER REPORTING COMPANIES.—

(1) IN GENERAL.—The Securities and Exchange Commission shall revise the definition of a "smaller reporting company" under section 229.10(f)(1) of title 17, Code of Federal Regulations—

(A) in paragraph (i), by adjusting the public float threshold from $250,000,000 to $500,000,000; and

(B) in paragraph (ii)—

(i) by adjusting the annual revenue threshold from $100,000,000 to $250,000,000; and

(ii) in paragraph (B), by adjusting the public float threshold from $700,000,000 to $900,000,000.

(2) USE OF THREE-YEAR ROLLING AVERAGE REVENUES.—The Securities and Exchange Commission shall revise paragraphs (1)(ii) and (2)(iii)(B) under the definition of "smaller reporting company" under section 229.10(f)(1) of title 17, Code of Federal Regulations, by substituting "three-year rolling average revenues" for "annual revenues".

(3) CONFORMING CHANGES.—The Securities and Exchange Commission shall revise the definition of a "smaller reporting company" under sections

230.405 and 240.12b–2 of title 17, Code of Federal Regulations, and any other rule of the Commission in the same manner as such definition is revised under paragraphs (1) and (2).

(b) ACCELERATED FILERS AND LARGE ACCELERATED FILERS.—

(1) LARGE ACCELERATED FILER.—The Securities and Exchange Commission shall revise the definition of a "large accelerated filer" under section 240.12b–2(2) of title 17, Code of Federal Regulations, to increase the threshold amount (for the aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of an issuer) from $700,000,000 to $750,000,000.

(2) THRESHOLD TO EXIT ACCELERATED FILER STATUS.—The Securities and Exchange Commission shall revise section 240.12b–2(3)(ii) of title 17, Code of Federal Regulations, to increase the threshold amount (for the aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of an issuer) at which an issuer is no longer an accelerated filer from $60,000,000 to $75,000,000.

(3) THRESHOLD TO EXIT LARGE ACCELERATED FILER STATUS.—The Securities and Exchange Com-

mission shall revise section 240.12b–2(3)(iii) of title 17, Code of Federal Regulations, to increase the threshold amount (for the aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of an issuer) at which an issuer is no longer a large accelerated filer from $560,000,000 to $750,000,000.

(4) EXCLUSION OF SMALLER REPORTING COMPANIES.—The Securities and Exchange Commission shall revise the definitions of an "accelerated filer" and a "large accelerated filer" under paragraphs (1) and (2) of section 240.12b–2 of title 17, Code of Federal Regulations, respectively, to exclude any issuer that is a smaller reporting company, as defined under section 229.10(f)(1) of title 17, Code of Federal Regulations.

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[~118H2590]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to create a safe harbor for finders and private placement brokers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. SALAZAR introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Exchange Act of 1934 to create a safe harbor for finders and private placement brokers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unlocking Capital for Small Businesses Act of 2025".

SEC. 2. SAFE HARBORS FOR PRIVATE PLACEMENT BROKERS AND FINDERS.

(a) IN GENERAL.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:

"(p) PRIVATE PLACEMENT BROKER SAFE HARBOR.—

"(1) REGISTRATION REQUIREMENTS.—Not later than 180 days after the date of the enactment of this subsection the Commission shall promulgate regulations with respect to private placement brokers that are no more stringent than those imposed on funding portals.

"(2) NATIONAL SECURITIES ASSOCIATIONS.—Not later than 180 days after the date of the enactment of this subsection the Commission shall promulgate regulations that require the rules of any national securities association to allow a private placement broker to become a member of such national securities association subject to reduced membership requirements consistent with this subsection.

"(3) DISCLOSURES REQUIRED.—Before effecting a transaction, a private placement broker shall disclose clearly and conspicuously, in writing, to all parties to the transaction as a result of the broker's activities—

"(A) that the broker is acting as a private placement broker;

"(B) the amount of any payment or anticipated payment for services rendered as a private placement broker in connection with such transaction;

"(C) the person to whom any such payment is made; and

"(D) any beneficial interest in the issuer, direct or indirect, of the private placement broker, of a member of the immediate family of the private placement broker, of an associated person of the private placement broker, or of a member of the immediate family of such associated person.

"(4) PRIVATE PLACEMENT BROKER DEFINED.—In this subsection, the term 'private placement broker' means a person that—

"(A) receives transaction-based compensation—

"(i) for effecting a transaction by—

"(I) introducing an issuer of securities and a buyer of such securities in connection with the sale of a busi-

ness effected as the sale of securities; or

"(II) introducing an issuer of securities and a buyer of such securities in connection with the placement of securities in transactions that are exempt from registration requirements under the Securities Act of 1933; and

"(ii) that is not with respect to—

"(I) a class of publicly traded securities;

"(II) the securities of an investment company (as defined in section 3 of the Investment Company Act of 1940); or

"(III) a variable or equity-indexed annuity or other variable or equity-indexed life insurance product;

"(B) with respect to a transaction for which such transaction-based compensation is received—

"(i) does not handle or take possession of the funds or securities; and

"(ii) does not engage in an activity that requires registration as an investment adviser under State or Federal law; and

"(C) is not a finder as defined under subsection (q).

"(q) FINDER SAFE HARBOR.—

"(1) NONREGISTRATION.—A finder is exempt from the registration requirements of this Act.

"(2) NATIONAL SECURITIES ASSOCIATIONS.—A finder shall not be required to become a member of any national securities association.

"(3) FINDER DEFINED.—In this subsection, the term 'finder' means a person described in paragraphs (A) and (B) of subsection (p)(4) that—

"(A) receives transaction-based compensation of equal to or less than $500,000 in any calendar year;

"(B) receives transaction-based compensation in connection with transactions that result in a single issuer selling securities valued at equal to or less than $15,000,000 in any calendar year;

"(C) receives transaction-based compensation in connection with transactions that result in any combination of issuers selling securities

valued at equal to or less than $30,000,000 in any calendar year; or

"(D) receives transaction-based compensation in connection with fewer than 16 transactions that are not part of the same offering or are otherwise unrelated in any calendar year.".

(b) VALIDITY OF CONTRACTS WITH REGISTERED PRIVATE PLACEMENT BROKERS AND FINDERS.—Section 29 of the Securities Exchange Act (15 U.S.C. 78cc) is amended by adding at the end the following:

"(d) Subsection (b) shall not apply to a contract made for a transaction if—

"(1) the transaction is one in which the issuer engaged the services of a broker or dealer that is not registered under this Act with respect to such transaction;

"(2) such issuer received a self-certification from such broker or dealer certifying that such broker or dealer is a registered private placement broker under section 15(p) or a finder under section 15(q); and

"(3) the issuer either did not know that such self-certification was false or did not have a reason-

able basis to believe that such self-certification was false.".

(c) REMOVAL OF PRIVATE PLACEMENT BROKERS FROM DEFINITIONS OF BROKER.—

(1) RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS.—Section 5312 of title 31, United States Code, is amended in subsection (a)(2)(G) by inserting "with the exception of a private placement broker as defined in section 15(p)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(p)(4))" before the semicolon at the end.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended by adding at the end the following:

"(G) PRIVATE PLACEMENT BROKERS.—A private placement broker as defined in section 15(p)(4) is not a broker for the purposes of this Act.".

SEC. 3. LIMITATIONS ON STATE LAW.

Section 15(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(i)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following:

"(3) PRIVATE PLACEMENT BROKERS AND FINDERS.—

"(A) IN GENERAL.—No State or political subdivision thereof may enforce any law, rule, regulation, or other administrative action that imposes greater registration, audit, financial recordkeeping, or reporting requirements on a private placement broker or finder than those that are required under subsections (p) and (q), respectively.

"(B) DEFINITION OF STATE.—For purposes of this paragraph, the term 'State' includes the District of Columbia and each territory of the United States."; and

(3) in paragraph (4), as so redesignated, by striking "paragraph (3)" and inserting "paragraph (5)".

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[~118H2578]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Investment Advisers Act of 1940 to increase the exemption from registration threshold for certain investment advisers of private funds to reflect the change in inflation.

IN THE HOUSE OF REPRESENTATIVES

Mr. BARR introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Investment Advisers Act of 1940 to increase the exemption from registration threshold for certain investment advisers of private funds to reflect the change in inflation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Investor Capital Access Act".

SEC. 2. INFLATION ADJUSTMENT FOR THE EXEMPTION THRESHOLD FOR CERTAIN INVESTMENT ADVISERS OF PRIVATE FUNDS.

Section 203(m) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(m)) is amended by adding at the end the following:

"(5) INFLATION ADJUSTMENT.—The Commission shall adjust the dollar amount described under paragraph (1)—

"(A) upon enactment of this paragraph, to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between the date of enactment of the Private Fund Investment Advisers Registration Act of 2010 and the date of enactment of this paragraph; and

"(B) annually thereafter, to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.".

[~118H2790]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Investment Company Act of 1940 with respect to the definition of qualifying venture capital funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. TIMMONS introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Investment Company Act of 1940 with respect to the definition of qualifying venture capital funds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving Capital Allocation for Newcomers Act of 2025".

SEC. 2. QUALIFYING VENTURE CAPITAL FUNDS.

Section 3(c)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "250 persons" and inserting "2,000 persons"; and

(2) in subparagraph (C)(i), by striking "$10,000,000" and inserting "$150,000,000".

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[~118H2609]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to provide small issuers with a micro-offering exemption free of mandated disclosures or offering filings, but subject to the antifraud provisions of the Federal securities laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GARBARINO introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to provide small issuers with a micro-offering exemption free of mandated disclosures or offering filings, but subject to the antifraud provisions of the Federal securities laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Entrepreneurs' Empowerment and Development Act of 2025" or the "SEED Act of 2025".

SEC. 2. MICRO-OFFERING EXEMPTION.

(a) IN GENERAL.—Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended—

(1) in subsection (a), by adding at the end the following:

"(8) transactions meeting the requirements of subsection (f).''; and

(2) by adding at the end the following:

"(f) MICRO-OFFERINGS.—The transactions referred to in subsection (a)(8) are transactions involving the sale of securities by an issuer (including all entities controlled by or under common control with the issuer) where the aggregate amount of all securities sold by the issuer, including any amount sold in reliance on the exemption provided under subsection (a)(8), during the 12-month period preceding such transaction, does not exceed $250,000.''.

(b) DISQUALIFICATION.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule, establish disqualification provisions under which an issuer shall not be eligible to offer securities pursuant to section 4(a)(8) of the Securities Act of 1933, as added by this section.

(2) INCLUSIONS.—Disqualification provisions required by this subsection shall—

(A) be substantially similar to the provisions of section 230.506(d) of title 17, Code of Federal Regulations (or any successor thereto); and

(B) disqualify any offering or sale of securities by a person that—

(i) is subject to a final order of a covered regulator that—

(I) bars the person from—

(aa) association with an entity regulated by the covered regulator;

(bb) engaging in the business of securities, insurance, or banking; or

(cc) engaging in savings association or credit union activities; or

(II) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct, if such final order was issued within the previous 10-year period; or

(ii) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission.

(3) COVERED REGULATOR DEFINED.—In this subsection, the term "covered regulator" means—

(A) a State securities commission (or an agency or officer of a State performing like functions);

(B) a State authority that supervises or examines banks, savings associations, or credit unions;

(C) a State insurance commission (or an agency or officer of a State performing like functions);

(D) a Federal banking agency (as defined under section 3 of the Federal Deposit Insurance Act); and

(E) the National Credit Union Administration.

(c) EXEMPTION UNDER STATE REGULATIONS.—Section 18(b)(4) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)) is amended—

(1) in subparagraph (F), by striking "or" at the end;

(2) in subparagraph (G), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(H) section 4(a)(8).".

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[~118H2651]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 with respect to small company capital formation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. STUTZMAN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 with respect to small company capital formation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulation A+ Improvement Act of 2025".

SEC. 2. JOBS ACT-RELATED EXEMPTION.

Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended—

(1) in paragraph (2)(A), by striking "$50,000,000" and inserting "$150,000,000, adjusted for inflation by the Commission every 2 years to the nearest $10,000 to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics"; and

(2) in paragraph (5)—

(A) by striking "such amount as" and inserting: "such amount, in addition to the adjustment for inflation provided for under such paragraph (2)(A), as"; and

(B) by striking "such amount, it" and inserting "such amount, in addition to the adjustment for inflation provided for under such paragraph (2)(A), it".

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[~118H2579]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To require the Securities and Exchange Commission to revise the definition of a qualifying investment, for purposes of the exemption from registration for venture capital fund advisers under the Investment Advisers Act of 1940, to include an equity security issued by a qualifying portfolio company and to include an investment in another venture capital fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. WAGNER introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Securities and Exchange Commission to revise the definition of a qualifying investment, for purposes of the exemption from registration for venture capital fund advisers under the Investment Advisers Act of 1940, to include an equity security issued by a qualifying portfolio company and to include an investment in another venture capital fund, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developing and Empowering our Aspiring Leaders Act of 2025".

SEC. 2. DEFINITIONS.

Not later than the end of the 180-day period beginning on the date of the enactment of this Act, the Securities and Exchange Commission shall—

(1) revise the definition of a qualifying investment under paragraph (c) of section 275.203(l)–1 of title 17, Code of Federal Regulations—

(A) to include an equity security issued by a qualifying portfolio company, whether acquired directly from the company or in a secondary acquisition; and

(B) to specify that an investment in another venture capital fund is a qualifying investment under such definition; and

(2) revise paragraph (a) of such section to require, as a condition of a private fund qualifying as a venture capital fund under such paragraph, that the qualifying investments of the private fund are either—

(A) predominantly qualifying investments that were acquired directly from a qualifying portfolio company; or

(B) predominantly qualifying investments in another venture capital fund or other venture capital funds.

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[~118H2607]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to preempt State securities law requiring registration for secondary transactions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to preempt State securities law requiring registration for secondary transactions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the "Improving Crowdfunding Opportunities Act".

SEC. 2. CROWDFUNDING REVISIONS.

(a) EXEMPTION FROM STATE REGULATION.—Section 18(b)(4)(A) of the Securities Act of 1933 (15 U.S.C.

77r(b)(4)(A)) is amended by striking "pursuant to section" and all that follows through the semicolon at the end and inserting the following: "pursuant to—

"(i) section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)); or

"(ii) section 4A(b) or any regulation issued under that section;".

(b) LIABILITY FOR MATERIAL MISSTATEMENTS AND OMISSIONS.—Section 4A(c) of the Securities Act of 1933 (15 U.S.C. 77d–1(c)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) LIABILITY OF FUNDING PORTALS.—For the purposes of this subsection, a funding portal, as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), shall not be considered to be an issuer unless, in connection with the offer or sale of a security, the funding portal knowingly—

"(A) makes any untrue statement of a material fact or omits to state a material fact in order to make the statements made, in light of

the circumstances under which they are made, not misleading; or

"(B) engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.".

(c) APPLICABILITY OF BANK SECRECY ACT REQUIREMENTS.—

(1) SECURITIES ACT OF 1933.—Section 4A(a) of the Securities Act of 1933 (15 U.S.C. 77d–1(a)) is amended—

(A) in paragraph (11), by striking "and" at the end;

(B) in paragraph (12), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(13) not be subject to the recordkeeping and reporting requirements relating to monetary instruments under subchapter II of chapter 53 of title 31, United States Code.".

(2) TITLE 31, UNITED STATES CODE.—Section 5312 of title 31, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) ADDITIONAL CLARIFICATION.—The term 'financial institution' (as defined in subsection (a))—

"(1) includes any futures commission merchant, commodity trading advisor, or commodity pool operator registered, or required to register, under the Commodity Exchange Act (7 U.S.C. 1 et seq.); and

"(2) does not include a funding portal, as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).".

(d) PROVISION OF IMPERSONAL INVESTMENT ADVICE AND RECOMMENDATIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) by redesignating the second paragraph (80) (relating to funding portals) as paragraph (81); and

(2) in paragraph (81)(A), as so redesignated, by inserting after "recommendations" the following: "(other than by providing impersonal investment advice by means of written material, or an oral statement, that does not purport to meet the objectives or needs of a specific individual or account)".

(e) TARGET AMOUNTS OF CERTAIN EXEMPTED OFFERINGS.—The Securities and Exchange Commission shall amend paragraph (t)(1) of section 227.201 of title 17, Code of Federal Regulations so that such paragraph applies with respect to an issuer offering or selling securi-

ties in reliance on section 4(a)(6) of the Securities Act of 1933 (15 U.S.C. 77d(a)(6)) if—

(1) the offerings of such issuer, together with all other amounts sold under such section 4(a)(6) within the preceding 12-month period, have, in the aggregate, a target amount of more than $124,000 but not more than $250,000;

(2) the financial statements of such issuer that have either been reviewed or audited by a public accountant that is independent of the issuer are unavailable at the time of filing; and

(3) such issuer provides a statement that financial information certified by the principal executive officer of the issuer has been provided instead of financial statements reviewed by a public accountant that is independent of the issuer.

(f) EXEMPTION AVAILABLE TO INVESTMENT COMPANIES.—Section 4A(f) of the Securities Act of 1933 (15 U.S.C. 77d–1(f)) is amended—

(1) in paragraph (2), by inserting "or" after the semicolon;

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(g) NON-ACCREDITED INVESTOR REQUIREMENTS.—Section 4(a)(6) of the Securities Act of 1933 (15 U.S.C. 77d(a)(6))) is amended—

(1) in subparagraph (A), by striking "$1,000,000" and inserting "$10,000,000"; and

(2) in subparagraph (B), by striking "does not exceed" and all that follows through "more than $100,000" and inserting "does not exceed 10 percent of the annual income or net worth of such investor".

(h) TECHNICAL CORRECTION.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended—

(1) by striking the term "section 4(6)" each place such term appears and inserting "section 4(a)(6)";

(2) by striking the term "section 4(6)(B)" each place such term appears and inserting "section 4(a)(6)(B)";

(3) in section 4A(f), by striking "Section 4(6)" and inserting "Section 4(a)(6)"; and

(4) in section 18(b)(4)(A), by striking "section 4" and inserting "section 4(a)".

[118H6825]

.....

(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to raise the offering amount threshold for when issuers using the crowdfunding exemption are required to file financial statements reviewed by a public accountant who is independent of the issuer, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MEUSER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to raise the offering amount threshold for when issuers using the crowdfunding exemption are required to file financial statements reviewed by a public accountant who is independent of the issuer, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amendment for Crowdfunding Capital Enhancement and Small-business Support Act of 2025" or the "ACCESS Act of 2025".

SEC. 2. OFFERING THRESHOLD FOR REVIEWS BY PUBLIC ACCOUNTANT.

(a) IN GENERAL.—Section 4A(b)(1)(D) of the Securities Act of 1933 (15 U.S.C. 77d–1(b)(1)(D)) is amended by striking "$100,000" each place such term appears and inserting "$500,000".

(b) TECHNICAL CORRECTION.—Section 4A of the Securities Act of 1933 (15 U.S.C. 77d–1) is amended—

(1) by striking "section 4(6)" each place such term appears and inserting "section 4(a)(6)"; and

(2) by striking "section 4(6)(B)" each place such term appears and inserting "section 4(a)(6)(B)".

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[~118H2506]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to exempt off-exchange secondary trading from State regulation where such trading is with respect to securities of an issuer that makes publicly available certain current information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MEUSER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to exempt off-exchange secondary trading from State regulation where such trading is with respect to securities of an issuer that makes publicly available certain current information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Restoring the Secondary Trading Market Act".

SEC. 2. EXEMPTION FROM STATE REGULATION.

Section 18(a) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)) is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) shall directly or indirectly prohibit, limit, or impose any conditions upon the off-exchange secondary trading in securities of an issuer that makes current information publicly available, including—

"(A) the information required in the periodic and current reports described under paragraph (b) of section 230.257 of title 17, Code of Federal Regulations; or

"(B) the documents and information specified in paragraph (b) of section 240.15c2–11 of title 17, Code of Federal Regulations.".

[118H1574]

.....
(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to permit an individual to invest in private issuers upon acknowledging the investment risks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. DAVIDSON introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to permit an individual to invest in private issuers upon acknowledging the investment risks, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Risk Disclosure and Investor Attestation Act".

SEC. 2. INVESTOR ATTESTATION.

(a) IN GENERAL.—Section 2(a)(15) of the Securities Act of 1933 (77b(a)(15)) is amended—

(1) by redesignating clause (i) as subparagraph (A);

(2) in subparagraph (A), as so redesignated, by striking "or" at the end;

(3) by redesignating clause (ii) as subparagraph (B);

(4) in subparagraph (B), as so redesignated, by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following:

"(C) with respect to an issuer, any individual that has attested to the issuer that the individual understands the risks of investment in private issuers, using such form as the Commission shall establish, by rule, but which form may not be longer than 2 pages in length.".

(b) RULEMAKING.—Not later than the end of the 1-year period beginning on the date of enactment of this Act, the Securities and Exchange Commission shall issue rules to carry out the amendments made by subsection (a), including establishing the form required under such amendments.

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[~118H2652]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to add additional investment thresholds for an individual to qualify as an accredited investor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. STUTZMAN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to add additional investment thresholds for an individual to qualify as an accredited investor, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment Opportunity Expansion Act".

SEC. 2. INVESTMENT THRESHOLDS TO QUALIFY AS AN ACCREDITED INVESTOR.

Section 2(a)(15) of the Securities Act of 1933 (15 U.S.C. 77b(a)(15)) is amended—

(1) by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B), respectively;

(2) in subparagraph (A), as so redesignated, by striking "adviser; or" and inserting "adviser;";

(3) in subparagraph (B), as so redesignated, by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(C) with respect to a proposed transaction, any individual whose aggregate investment, at the completion of such transaction, in securities with respect to which there has not been a public offering is not more than 10 percent of the greater of—

"(i) the net assets of the individual; or

"(ii) the annual income of the individual.".

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[~118H2773]

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the definition of an accredited investor to include individuals receiving advice from certain professionals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the definition of an accredited investor to include individuals receiving advice from certain professionals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCREDITED INVESTORS INCLUDE INDIVIDUALS RECEIVING ADVICE FROM CERTAIN PROFESSIONALS.

(a) SECURITIES ACT OF 1933.—Section 2(a)(15) of the Securities Act of 1933 (15 U.S.C. 77b(a)(15)) is amended—

(1) by striking "(15) The term 'accredited investor' shall mean—" and inserting the following:

"(15) ACCREDITED INVESTOR.—

"(A) IN GENERAL.—The term 'accredited investor' means—";

(2) in clause (i), by striking "or" at the end;

(3) in clause (ii), by striking the period at the end and inserting "; or";

(4) by adjusting the indentation of clauses (i) and (ii) by moving such clauses 2 ems to the right; and

(5) by adding at the end the following:

"(iii) any individual receiving individualized investment advice or individualized investment recommendations with respect to the applicable transaction from an individual described under section 230.501(a)(10) of title 17, Code of Federal Regulations.

"(B) DEFINITIONS.—In subparagraph (A)(iii):

"(i) INVESTMENT ADVICE.—The term 'investment advice' shall be interpreted consistently with the interpretation of the phrase 'engages in the business of advising

others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities' under section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)).

"(ii) INVESTMENT RECOMMENDATION.—The term 'investment recommendation' shall be interpreted consistently with the interpretation of the term 'recommendation' under section 240.15l–1 of title 17, Code of Federal Regulations.".

(b) CONFORMING CHANGES TO REGULATIONS.—The Securities and Exchange Commission shall revise section 230.501(a) of title 17, Code of Federal Regulations, and any other definition of "accredited investor" in a rule of the Commission in the same manner as such definition is revised under subsection (a).

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[~118H1379]

.....

(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To permit a registered investment company to omit certain fees from the calculation of Acquired Fund Fees and Expenses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SHERMAN introduced the following bill; which was referred to the Committee on _____

A BILL

To permit a registered investment company to omit certain fees from the calculation of Acquired Fund Fees and Expenses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Small Business Investor Capital Act".

SEC. 2. AMENDMENTS TO ACQUIRED FUND FEES AND EXPENSES REPORTING ON INVESTMENT COMPANY REGISTRATION STATEMENTS.

(a) DEFINITIONS.—In this section:

(1) ACQUIRED FUND.—The term "Acquired Fund" has the meaning given the term in Forms N–1A, N–2, and N–3.

(2) ACQUIRED FUND FEES AND EXPENSES.—The term "Acquired Fund Fees and Expenses" means the Acquired Fund Fees and Expenses subcaption in the Fee Table Disclosure.

(3) BUSINESS DEVELOPMENT COMPANY.—The term "business development company" has the meaning given the term in section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)).

(4) FEE TABLE DISCLOSURE.—The term "Fee Table Disclosure" means the fee table described in Item 3 of Form N–1A, Item 3 of Form N–2, or Item 4 of Form N–3 (as applicable, and with respect to each, in any successor fee table disclosure that the Securities and Exchange Commission adopts).

(5) FORM N–1A.—The term "Form N–1A" means the form described in section 274.11A of title 17, Code of Federal Regulations, or any successor regulation.

(6) FORM N–2.—The term "Form N–2" means the form described in section 274.11a–1 of title 17, Code of Federal Regulations, or any successor regulation.

(7) FORM N–3.—The term "Form N–3" means the form described in section 274.11b of title 17, Code of Federal Regulations, or any successor regulation.

(8) REGISTERED INVESTMENT COMPANY.—The term "registered investment company" means an investment company, as defined under section 3(a) of the Investment Company Act of 1940, registered with the Securities and Exchange Commission under such Act.

(b) EXCLUDING BUSINESS DEVELOPMENT COMPANIES FROM ACQUIRED FUND FEES AND EXPENSES.—A registered investment company may, on any investment company registration statement filed pursuant to section 8(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(b)), omit from the calculation of Acquired Fund Fees and Expenses those fees and expenses that the investment company incurred indirectly as a result of investment in shares of one or more Acquired Funds that is a business development company.

I

119TH CONGRESS
1ST SESSION

H. R. 1190

To amend the Securities Exchange Act of 1934 to expand access to capital for rural-area small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2025

Mr. DOWNING (for himself, Ms. BYNUM, Mr. NUNN of Iowa, and Mr. PAPPAS) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To amend the Securities Exchange Act of 1934 to expand access to capital for rural-area small businesses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Expanding Access to Capital for Rural Job Creators Act".

SEC. 2. ACCESS TO CAPITAL FOR RURAL-AREA SMALL BUSINESSES.

Section 4(j) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(j)) is amended—

(1) in paragraph (4)(C), by inserting "rural-area small businesses," after "women-owned small businesses,"; and

(2) in paragraph (6)(B)(iii), by inserting "rural-area small businesses," after "women-owned small businesses,".

○

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to establish Offices of Small Business within rule writing divisions of the Securities and Exchange Commission to coordinate on rules and policy priorities related to capital formation.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Exchange Act of 1934 to establish Offices of Small Business within rule writing divisions of the Securities and Exchange Commission to coordinate on rules and policy priorities related to capital formation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAKING THE SEC EVEN MORE SMALL BUSINESS FRIENDLY.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:

"(l) OFFICES OF SMALL BUSINESS.—The Commission shall establish, within each division of the Commission that performs rule writing activities, an Office of Small Business, which shall coordinate with the Office of the Advocate for Small Business Capital Formation on rules and policy priorities related to capital formation.".

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Investment Company Act of 1940 to encourage startup venture funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Investment Company Act of 1940 to encourage startup venture funds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENCOURAGING STARTUP VENTURE FUNDS.

(a) BENEFICIAL OWNER LIMIT INCREASE.—Section 3(c)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–3) is amended by striking "one hundred persons" and inserting "300 persons".

(b) QUALIFYING VENTURE CAPITAL FUND LIMITS INCREASE.—Section 3(c)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(1)) is amended—

(1) by striking "250 persons" and inserting "500 persons"; and

(2) in subparagraph (C)(i), by striking "$10,000,000" and inserting "$50,000,000".

(c) DISCLOSURE REQUIREMENTS FOR VENTURE CAPITAL FUNDS UNDER SECTION 3(c)(1).—

(1) IN GENERAL.—Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) is amended by adding at the end the following new subsection:

"(o) DISCLOSURE REQUIREMENTS FOR VENTURE CAPITAL FUNDS.—The Commission may, by rule or regulation, require venture capital funds that rely on the exemption provided under section 3(c)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1)) to disclose—

"(1) in detail, to their investors, including all limited partners, information concerning the businesses and startup entities in which they invest, specifically including—

"(A) geographic location of the principal business operations;

"(B) socio-economic characteristics of founders or controlling persons;

"(C) veteran status of founders or controlling persons;

"(D) industry sector, size, stage of development, and related details; and

"(E) other factors or metrics deemed by the Commission as relevant for the public interest or investor protection; and

"(2) publicly, a summary of the information described in paragraph (1), in a form and manner prescribed by the Commission to promote transparency and accountability while respecting confidential or proprietary information.".

(2) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue rules or regulations necessary to implement subsection (o) of section 203 of the Investment Advisers Act of 1940, as added by this subsection.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to disclosures required on or after the date that is one year following the date of enactment of this Act.

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[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to expand the ability of individuals to become accredited investors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to expand the ability of individuals to become accredited investors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCREDITED INVESTOR DEFINITION REFORMS.

(a) ACCREDITED INVESTOR EXAMINATION.—

(1) IN GENERAL.—Section 2 of the Securities Act of 1933 (15 U.S.C. 77b) is amended—

(A) in subsection (a)(15)—

(i) in clause (i), by striking "or" at the end;

(ii) by adding at the end the following:

"(iii) any individual who passes an accredit investor examination described under subsection (c);"; and

(B) by adding at the end the following:

"(c) ACCREDITED INVESTOR EXAMINATION.—

"(1) IN GENERAL.—The Commission shall, by rule, establish an accredited investor examination that tests the understanding of individuals of the aspects of investing in unregistered securities, private companies, or private funds.

"(2) REQUIRED ELEMENTS.—In establishing the examination under paragraph (1), the Commission shall include elements that test a thorough understanding of risks associated with investing in unregistered securities, private companies, or private funds and techniques to mitigate such risks, including—

"(A) illiquid aspects of unregistered securities, securities issued by private companies, or investments into private funds, including risks associated with—

"(i) limited liquidity;

"(ii) price volatility;

"(iii) lack of disclosures;

"(iv) difficulty in valuing the investment;

"(v) wider bid-ask spreads;

"(vi) information asymmetry;

"(vii) managers' risks;

"(viii) leverage risks;

"(ix) counterparty risk;

"(x) regulatory risk;

"(xi) operational risk;

"(xii) concentration risk; and

"(xiii) longer investment horizons; and

"(B) conflicts of interest, when the interests of financial professionals and their clients are misaligned or when financial professionals' professional responsibilities are compromised by personal or financial motivations, including conflicts of interest risk stemming from practices related to—

"(i) commissions and fees;

"(ii) proprietary products;

"(iii) sales targets and bonuses;

"(iv) revenue sharing arrangements;

"(v) gifts and entertainment;

"(vi) affiliated companies;

"(vii) personal investments;

"(viii) churning; and

"(ix) soft dollar arrangements.

"(3) TERMS AND CONDITIONS.—In establishing the examination under paragraph (1), the Commission may set any terms and conditions to protect investors while enabling willing and able individuals to pass the examination.".

(2) IMPLEMENTATION DEADLINE.—Not later than the end of the 24-month period beginning on the date of enactment of this Act, the Securities and Exchange Commission shall establish the accredited investor examination required under the amendments made by subsection (a) and being administering such examination.

(b) SECURITIES INDUSTRY ESSENTIALS EXAMINATION.—Section 2(a)(15) of the Securities Act of 1933 (15 U.S.C. 77b(a)(15)), as amended by subsection (a), is further amended by adding at the end the following:

"(iv) an individual that has, within the past 15-years, passed the Securities Industry Essentials examination offered by FINRA, a successor examination, or any similar examina-

tion (as determined by the Commission) offered by another national securities association;".

(c) INDIVIDUAL NET WORTH AND INCOME LIMITS.—

(1) IN GENERAL.—The Securities Exchange Commission shall revise section 230.501(a) of title 17, Code of Federal Regulations, to exclude retirement assets and retirement income assets in any calculation of a natural person's—

(A) net worth;

(B) joint net worth with that person's spouse or spousal equivalent;

(C) income; or

(D) joint income with that person's spouse spousal equivalent.

(2) DEFINITIONS.—In this subsection:

(A) RETIREMENT ASSET.—The term "retirement asset"—

(i) means any asset in any retirement plan, including—

(I) any qualified retirement plan subject to the Employee Retirement Income Security Act of 1974;

(II) an individual retirement account, as defined under section 408 of the Internal Revenue Code of 1986;

(III) a governmental plan, as defined under section 414 of the Internal Revenue Code of 1986;

(IV) a multiemployer plan, as defined under section 414 of the Internal Revenue Code of 1986;

(V) annuities, life insurance contracts, and endowments;

(VI) any plan, investment company or other collective investment vehicle that imposes an exit, withdrawal, or contingent deferred sales fee; and

(VII) such other retirement plan as the Commission may determine appropriate; and

(ii) includes any proceeds, assets, or other distributions from retirement plans (including the proceeds from the sale of any such assets) during the 12-month period preceding the date of any sale of the assets.

(B) RETIREMENT INCOME.—The term "retirement income"—

(i) means—

(I) any pension, funds, or other benefits paid as a result of past services or individual retirements, including those paid by any government agency;

(II) any proceeds or other benefits paid as a result of past services, including those paid by any government agency;

(III) any proceeds, assets, or other distributions from a retirement asset; and

(IV) such other categories as the Commission may determine appropriate; and

(ii) includes any proceeds generated from the sale of any asset distributed or withdrawn from a retirement asset during the 12-month period preceding the date of any sale of the asset.

(3) REVISING INDIVIDUAL NET WORTH AND INCOME LIMITS FOR INFLATION.—Not later than the end of the 6-month period beginning on the date of enactment of this Act, and every 5 years thereafter, the Commission shall revise the net worth and in-

come thresholds under section 230.501 of title 17, Code of Federal Regulations, to account for inflation since the last time the Commission revised such thresholds.