

**[DISCUSSION DRAFT]**

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

To amend the securities laws to improve the small company capital formation provisions, and for other purposes

---

IN THE HOUSE OF REPRESENTATIVES

Mr. MCHENRY introduced the following bill; which was referred to the Committee on \_\_\_\_\_

---

**A BILL**

To amend the securities laws to improve the small company capital formation provisions, and for other purposes

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Startup Capital Mod-  
5 ernization Act of 2014”.

1 **SEC. 2. INCREASE IN SMALL ISSUES EXEMPTIVE AUTHOR-**  
2 **ITY.**

3 Section 3(b)(1) of the Securities Act of 1933 (15  
4 U.S.C. 77c(b)(1)) is amended by striking “\$5,000,000”  
5 and inserting “\$10,000,000”.

6 **SEC. 3. PREEMPTION OF STATE LAWS.**

7 (a) **IN GENERAL.**—The first subparagraph (D) of  
8 section 18(b)(4) of the Securities Act of 1933 (15 U.S.C.  
9 77r(b)(4)) (relating to a rule or regulation adopted pursu-  
10 ant to section 3(b)(2)) is amended by inserting “section  
11 3(b)(1) or” before “section 3(b)(2)”.

12 (b) **CLARIFICATION OF THE PRESERVATION OF**  
13 **STATE ENFORCEMENT AUTHORITY.**—

14 (1) **IN GENERAL.**—The amendment made by  
15 subsection (a) relates solely to State registration,  
16 documentation, and offering requirements, as de-  
17 scribed under section 18(a) of Securities Act of 1933  
18 (15 U.S.C. 77r(a)), and shall have no impact or lim-  
19 itation on other State authority to take enforcement  
20 action with regard to an issuer, intermediary, or any  
21 other person or entity using the exemption from reg-  
22 istration provided by section 3(b)(1) of such Act.

23 (2) **CLARIFICATION OF STATE JURISDICTION**  
24 **OVER UNLAWFUL CONDUCT OF INTERMEDIARIES,**  
25 **ISSUERS, AND CUSTODIANS.**—Section 18(c)(1) of the  
26 Securities Act of 1933 is amended—

1 (A) in subparagraph (A), by striking  
2 “and” at the end;

3 (B) in subparagraph (B), by striking the  
4 period at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(C) with respect to a transaction de-  
7 scribed under section 3(b), unlawful conduct by  
8 an issuer or custodian.”.

9 **SEC. 4. EXCLUSION FROM SHAREHOLDER CAP.**

10 (a) **IN GENERAL.**—Section 12(g) of the Securities  
11 Exchange Act of 1934 (15 U.S.C. 78l(g)) is amended by  
12 adding at the end the following:

13 “(7) **EXCLUSION FOR PERSONS HOLDING CER-**  
14 **TAIN SECURITIES OF SMALL ISSUES.**—Any security  
15 issued in compliance with subsection 3(b) of the Se-  
16 curities Act of 1933 (15 U.S.C. § 77c(b)) shall be  
17 exempt from the provisions of this subsection.”.

18 (b) **RULEMAKING.**—The Securities and Exchange  
19 Commission shall issue a rule to carry out section 12(g)(7)  
20 of the Securities Exchange Act of 1934 (15 U.S.C. 78c),  
21 as added by this section, not later than 180 days after  
22 the date of enactment of this section.

23 (c) **RULE OF APPLICABILITY.**—The exclusion pro-  
24 vided under section 12(g)(7) of the Securities Exchange  
25 Act of 1934 (15 U.S.C. 78c), as added by this section,

1 shall apply to securities issued before, on, or after the date  
2 of the enactment of this Act.

3 **SEC. 5. EXEMPTED TRANSACTIONS.**

4 (a) EXEMPTED TRANSACTIONS.—Section 4 of the Se-  
5 curities Act of 1933 (15 U.S.C. 77d) is amended—

6 (1) in subsection (a), by adding at the end the  
7 following new paragraph:

8 “(7) transactions—

9 “(A) by any person other than an issuer,  
10 underwriter, or dealer in which—

11 “(i) each purchaser is an accredited  
12 investor, as that term is defined in section  
13 230.501(a) of title 17, Code of Federal  
14 Regulations; and

15 “(ii) to the extent that the seller uses  
16 any form of general solicitation or general  
17 advertising in connection with the trans-  
18 action, the seller takes reasonable steps to  
19 verify, in the manner set forth in section  
20 230.501(c)(ii) of title 17, Code of Federal  
21 Regulations (or any successor thereto),  
22 that all purchasers in that transaction are  
23 accredited investors;

24 “(B) with respect to which, for purposes of  
25 resale, any securities acquired in a transaction

1 meeting the requirements of this paragraph  
2 shall have the status of securities acquired in a  
3 transaction described in paragraph (2); and

4 “(C) with respect to which the term ‘un-  
5 derwriter’ has the meaning given such term in  
6 section 2, except that the term ‘issuer’ as used  
7 in the definition of such term in such section  
8 shall include, for purposes of this subsection,  
9 only the issuer, a subsidiary of the issuer, or a  
10 person of which the issuer is a subsidiary.”;

11 (b) EXEMPTION IN CONNECTION WITH CERTAIN EX-  
12 EMPT OFFERINGS.—Section 18(b)(4) of the Securities Act  
13 of 1933 (15 U.S.C. 77r(b)(4)) is amended—

14 (1) by redesignating the second subparagraph  
15 (D) and subparagraph (E) as subparagraphs (E)  
16 and (F), respectively;

17 (2) in subparagraph (E), as so redesignated, by  
18 striking “; or” and inserting a semicolon;

19 (3) in subparagraph (F), as so redesignated, by  
20 striking the period and inserting “; or”; and

21 (4) by adding at the end the following new sub-  
22 paragraph:

23 “(G) paragraph (7) of section 4(a).”.