

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO
H.R. 1839
OFFERED BY MR. MCHENRY OF NORTH
CAROLINA AND MS. WATERS OF CALIFORNIA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Reforming Access for
3 Investments in Startup Enterprises Act of 2015” or the
4 “RAISE Act of 2015”.

5 SEC. 2. EXEMPTED TRANSACTIONS.

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

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

10 “(7) transactions meeting the requirements of
11 subsection (d).”;

12 (2) by redesignating the second subsection (b)
13 (relating to securities offered and sold in compliance
14 with Rule 506 of Regulation D) as subsection (c);
15 and

16 (3) by adding at the end the following:

1 “(d) CERTAIN ACCREDITED INVESTOR TRANS-
2 ACTIONS.—The transactions referred to in subsection
3 (a)(7) are transactions meeting the following require-
4 ments:

5 “(1) ACCREDITED INVESTOR REQUIREMENT.—
6 Each purchaser is an accredited investor, as that
7 term is defined in section 230.501(a) of title 17,
8 Code of Federal Regulations (or any successor regu-
9 lation).

10 “(2) PROHIBITION ON GENERAL SOLICITATION
11 OR ADVERTISING.—Neither the seller, nor any per-
12 son acting on the seller’s behalf, offers or sells secu-
13 rities by any form of general solicitation or general
14 advertising.

15 “(3) INFORMATION REQUIREMENT.—In the
16 case of a transaction involving the securities of an
17 issuer that is neither subject to section 13 or 15(d)
18 of the Securities Exchange Act of 1934 (15 U.S.C.
19 78m; 78o(d)), nor exempt from reporting pursuant
20 to section 240.12g3-2(b) of title 17, Code of Federal
21 Regulations, nor a foreign government (as defined in
22 section 230.405 of title 17, Code of Federal Regula-
23 tions) eligible to register securities under Schedule
24 B, the seller and a prospective purchaser designated
25 by the seller obtain from the issuer, upon request of

1 the seller, and the seller in all cases makes available
2 to a prospective purchaser, the following information
3 (which shall be reasonably current in relation to the
4 date of resale under this section):

5 “(A) The exact name of the issuer and the
6 issuer’s predecessor (if any).

7 “(B) The address of the issuer’s principal
8 executive offices.

9 “(C) The exact title and class of the secu-
10 rity.

11 “(D) The par or stated value of the secu-
12 rity.

13 “(E) The number of shares or total
14 amount of the securities outstanding as of the
15 end of the issuer’s most recent fiscal year.

16 “(F) The name and address of the transfer
17 agent, corporate secretary, or other person re-
18 sponsible for transferring shares and stock cer-
19 tificates.

20 “(G) A statement of the nature of the
21 business of the issuer and the products and
22 services it offers, which shall be presumed rea-
23 sonably current if the statement is as of 12
24 months before the transaction date.

1 “(H) The names of the officers and direc-
2 tors of the issuer.

3 “(I) The names of any persons registered
4 as a broker, dealer, or agent that shall be paid
5 or given, directly or indirectly, any commission
6 or remuneration for such person’s participation
7 in the offer or sale of the securities.

8 “(J) The issuer’s most recent balance
9 sheet and profit and loss statement and similar
10 financial statements, which shall—

11 “(i) be for such part of the two pre-
12 ceding fiscal years as the issuer has been
13 in operation;

14 “(ii) be prepared in accordance with
15 generally accepted accounting principles or,
16 in the case of a foreign private issuer, be
17 prepared in accordance with generally ac-
18 cepted accounting principles or the Inter-
19 national Financial Reporting Standards
20 issued by the International Accounting
21 Standards Board;

22 “(iii) be presumed reasonably current
23 if—

24 “(I) with respect to the balance
25 sheet, the balance sheet is as of a date

1 less than 16 months before the trans-
2 action date; and

3 “(II) with respect to the profit
4 and loss statement, such statement is
5 for the 12 months preceding the date
6 of the issuer’s balance sheet; and

7 “(iv) if the balance sheet is not as of
8 a date less than 6 months before the trans-
9 action date, be accompanied by additional
10 statements of profit and loss for the period
11 from the date of such balance sheet to a
12 date less than 6 months before the trans-
13 action date.

14 “(K) To the extent that the seller is a con-
15 trol person with respect to the issuer, a brief
16 statement regarding the nature of the affili-
17 ation, and a statement certified by such seller
18 that they have no reasonable grounds to believe
19 that the issuer is in violation of the securities
20 laws or regulations.

21 “(4) ISSUERS DISQUALIFIED.—The transaction
22 is not for the sale of a security where the seller is
23 an issuer or a subsidiary, either directly or indi-
24 rectly, of the issuer.

1 “(5) BAD ACTOR PROHIBITION.—Neither the
2 seller, nor any person that has been or will be paid
3 (directly or indirectly) remuneration or a commission
4 for their participation in the offer or sale of the se-
5 curities, including solicitation of purchasers for the
6 seller is subject to an event that would disqualify an
7 issuer or other covered person under Rule 506(d)(1)
8 of Regulation D (17 C.F.R. 230.506(d)(1)) or is
9 subject to a statutory disqualification described
10 under section 3(a)(39) of the Securities Exchange
11 Act of 1934.

12 “(6) BUSINESS REQUIREMENT.—The issuer is
13 engaged in business, is not in the organizational
14 stage or in bankruptcy or receivership, and is not a
15 blank check, blind pool, or shell company that has
16 no specific business plan or purpose or has indicated
17 that the issuer’s primary business plan is to engage
18 in a merger or combination of the business with, or
19 an acquisition of, an unidentified person.

20 “(7) UNDERWRITER PROHIBITION.—The trans-
21 action is not with respect to a security that con-
22 stitutes the whole or part of an unsold allotment to,
23 or a subscription or participation by, a broker or
24 dealer as an underwriter of the security or a redis-
25 tribution.

1 “(8) OUTSTANDING CLASS REQUIREMENT.—
2 The transaction is with respect to a security of a
3 class that has been authorized and outstanding for
4 at least 90 days prior to the date of the transaction.

5 “(e) ADDITIONAL REQUIREMENTS.—

6 “(1) IN GENERAL.—With respect to an exempt-
7 ed transaction described under subsection (a)(7):

8 “(A) Securities acquired in such trans-
9 action shall be deemed to have been acquired in
10 a transaction not involving any public offering.

11 “(B) Such transaction shall be deemed not
12 to be a distribution for purposes of section
13 2(a)(11).

14 “(C) Securities involved in such trans-
15 action shall be deemed to be restricted securi-
16 ties within the meaning of Rule 144 (17 C.F.R.
17 230.144).

18 “(2) RULE OF CONSTRUCTION.—The exemption
19 provided by subsection (a)(7) shall not be the exclu-
20 sive means for establishing an exemption from the
21 registration requirements of section 5.”.

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

1 (1) by redesignating the second subparagraph
2 (D) and subparagraph (E) as subparagraphs (E)
3 and (F), respectively;

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

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

8 (4) by adding at the end the following new sub-
9 paragraph:

10 “(G) section 4(a)(7).”.

