JEB HENSARLING, TX, CHAIRMAN

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

MAXINE WATERS, CA, RANKING MEMBER

Memorandum

To: Members of the Committee on Financial Services

From: Financial Services Committee Majority Staff

Date: May 15, 2015

Subject: May 20, 2015, Full Committee Markup

The Committee on Financial Services will meet to mark up the following measures in an order to be determined by the Chairman at 10:00 a.m. on Wednesday, May 20, 2015, and subsequent days if necessary, in room 2128 of the Rayburn House Office Building.

H.R. 432, the "SBIC Advisers Relief Act of 2015"

Rep. Blaine Luetkemeyer introduced H.R. 432, the "SBIC Advisers Relief Act," which amends the Investment Advisers Act of 1940 to reduce unnecessary regulatory costs and eliminate duplicative regulation of advisers to Small Business Investment Companies (SBICs). The bill preempts any state registration requirements of those advisers solely advising SBIC funds; allows advisers to venture capital funds to continue to be "exempt reporting advisers" if they also advise an SBIC fund; and prevents the inclusion of the assets of an SBIC fund in the SEC registration calculation of assets under management for those advisers that advise private funds in addition to SBIC funds.

H.R. 686, the "Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification Act of 2015"

Introduced by Reps. Bill Huizenga and Brian Higgins, H.R. 686, the "Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification Act of 2015," amends Section 15(b) of the Securities Exchange Act of 1934 (hereinafter, "Exchange Act") to create a simplified SEC registration system for brokers known as M&A brokers that perform services in connection with the transfer of ownership of smaller privately held companies.

H.R. 1334, the "Holding Company Registration Threshold Equalization Act of 2015"

Introduced by Reps. Steve Womack, Jim Himes, John Delaney and Ann Wagner, H.R. 1334, the "Holding Company Registration Threshold Equalization Act of 2015," would amend Title VI of the Jumpstart Our Business Startups Act (hereinafter, "JOBS Act") to raise the threshold for mandatory SEC registration of savings and loan companies from 500 shareholders of record to 2,000 shareholders of record (with no limitation on the number of non-accredited investors) and to raise the threshold for a savings and loan company to terminate its registration from 300 to 1,200 shareholders of record.

H.R. 1525, the "Disclosure Modernization and Simplification Act of 2015"

Introduced by Rep. Scott Garrett, H.R. 1525, the "Disclosure Modernization and Simplification Act of 2015," directs the SEC to simplify its disclosure regime for issuers and investors by permitting issuers to submit a summary page on Form 10-K with cross-references to the content of the report. H.R. 1525 also directs the SEC to revise Regulation S-K to scale disclosure rules for emerging growth companies and smaller issuers, and to eliminate duplicative, outdated, or unnecessary Reg. S-K disclosure requirements for all issuers. Finally, H.R. 1525 directs the SEC to further study Reg. S-K and engage in rulemaking to implement additional reforms to simplify and modernize Reg. S-K disclosure rules within 360 days of enactment of the Act.

H.R. 1675, the "Encouraging Employee Ownership Act of 2015"

Introduced by Reps. Randy Hultgren and John Delaney, H.R. 1675, the "Encouraging Employee Ownership Act of 2015," would amend SEC Rule 701, originally adopted in 1988 under Section 3(b) of the Securities Act of 1933 and last updated in 1999. Under current law, if an issuer sells, in the aggregate, more than $5 million of securities in any consecutive 12-month period, the issuer is required to provide additional disclosures to investors, such as risk factors, the plans under which offerings are made, and certain financial statements. H.R. 1675 would require the SEC to increase that threshold from $5 million to $10 million and index the amount for inflation every five years.

H.R. 1723, the "Small Company Simple Registration Act of 2015"

Introduced by Reps. Ann Wagner and Terri Sewell, H.R. 1723, the "Small Company Simple Registration Act of 2015," simplifies the registration process by amending the SEC's Form S-1 registration statement, which is the basic registration form for new securities offerings, to allow smaller reporting companies to incorporate by reference any documents filed with the SEC after the effective date of the Form S-1.

H.R. 1847, the "Swap Data Repository and Clearinghouse Indemnification Correction Act of 2015"

Introduced by Reps. Rick Crawford, Gwen Moore, and Bill Huizenga, H.R. 1847, the "Swap Data Repository and Clearinghouse Indemnification Correction Act of 2015," repeals the indemnification provisions in Sections 725, 728, and 763 of the Dodd-Frank Wall Street Reform and Consumer Protection Act to increase market transparency, facilitate global regulatory cooperation, and ensure that U.S. regulators have access to necessary swaps data from foreign data repositories, derivatives clearing organizations, and regulators.

H.R. 1965, the "Small Company Disclosure Simplification Act"

Introduced by Rep. Robert Hurt, H.R. 1965, the "Small Company Disclosure Simplification Act," provides a voluntary exemption for all Emerging Growth Companies and other issuers with annual gross revenues under $250 million from the SEC's requirements to file their financial statements in an interactive data format known as eXtensible Business Reporting Language (XBRL). The exemption would extend for either five years or two years after the SEC establishes

that the benefits of XBRL to smaller issuers outweigh the costs, whichever occurs first. H.R. 1965 directs the SEC to conduct an economic analysis on the costs and benefits of XBRL to smaller issuers and to report to Congress on the SEC and investors' use of the information.

H.R. 1975, the "Securities and Exchange Commission Overpayment Credit Act"

Under Section 31 of the Exchange Act, national securities exchanges and other self-regulatory organizations (SROs) owe proportional transaction fees to the SEC for the cost of supervising and regulating such transactions. In 2008, the Chicago Stock Exchange discovered it had overpaid $154,048 for 2007 Section 31 fees. Similarly, in 2014, NASDAQ discovered it had overpaid almost $750,000 for 2013 Section 31 fees. These exchanges overpaid out of an abundance of caution, rather than risk an enforcement action for underpayment. The SEC, however, has not refunded these overpayments. The SEC has kept these overpayments because the SEC has interpreted the Exchange Act as not granting the SEC the authority to refund the overpayment of Section 31 fees. To correct this problem, Reps. Gregory Meeks and Randy Hultgren, have introduced H.R. 1975, which allows the SROs to offset previous Section 31 overpayments against future Section 31 fees, under a 10-year statute of limitations.

H.R. 2064, the "Improving Access to Capital for Emerging Growth Companies Act"

Introduced by Reps. Stephen Fincher and John Delaney, H.R. 2064, the "Improving Access to Capital for Emerging Growth Companies Act," makes changes related to the treatment of Emerging Growth Companies (EGCs), as defined by the JOBS Act. H.R. 2064 would reduce the number of days an EGC must have a confidential registration statement on file with the SEC before it may conduct a road show from 21 days to 15. H.R. 2064 also clarifies that an issuer that was an EGC at the time it filed a confidential registration statement but is no longer an emerging growth company will continue to be treated as an EGC through the date of its IPO and requires the SEC to revise its general instructions on Form S-1 regarding the financial information an issuer must disclose prior to its IPO.

H.R. 2354 the "Streamlining Excessive and Costly Regulations Review Act"

Reps. Robert Hurt and Kyrsten Sinema introduced H.R. 2354, the "Streamlining Excessive and Costly Regulations Review Act," which requires the SEC to review significant regulations it has previously issued. The bill requires that within the first five years after enactment, and every ten years thereafter, the SEC must engage in a retrospective review of all significant SEC rules and regulations. Significant regulations are those with (1) an annual economic impact of $100 million or more as defined by the Office of Management & Budget, or that (2) result in a major increase in costs or prices for consumers, individual industries, federal, state, or local governments, or geographic regions, or (3) cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete against their foreign counterparts. The bill requires the five SEC Commissioners to vote on whether each regulation identified by the review is outmoded, ineffective, insufficient, excessively burdensome, or no longer necessary in the public interest or inconsistent with the SEC's mandate to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. The bill requires the SEC to allow for notice and public comment and mandates that the Commissioners vote to amend or repeal any regulation meeting the statutory criteria.

Reps. Hurt and Sinema modeled their bill on an existing statute and Executive Orders. Section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) requires the Federal Financial Institutions Examination Council, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Board of Governors of the Federal Reserve System to review their regulations at least every 10 years to identify any outdated or otherwise unnecessary regulations imposed on insured depository institutions

H.R. 2356 the "Fair Access to Investment Research Act of 2015"

Reps. French Hill and John Carney introduced H.R. 2356, the "Fair Access to Investor Research Act," which directs the SEC to provide a safe harbor for research reports that cover Exchange Traded Funds (ETFs) so that these reports are not considered "offers" under Section 5 of the Securities Act of 1933. The bill requires the SEC to finalize the rules within 120 days and if the deadline is not met, an interim safe harbor will take effect until the SEC's rules are finalized. To qualify for the bill's safe harbor, a broker or dealer must distribute the research report in the regular course of business regarding an ETF issuer that (1) has a class of securities listed on a national securities exchange for at least 12 months prior to the publishing or distribution of the report, (2) has an aggregate market value of at least $75 million, and (3) is either a unit investment or an open-ended company or a trust whose assets consist primarily of interests in commodities, currencies, or derivative instruments referring commodities or currencies.

H.R. 2357, the "Accelerating Access to Capital Act of 2015"

Rep. Ann Wagner introduced H.R. 2357, the "Accelerating Access to Capital Act of 2015." The bill amends the SEC's Form S-3 registration statement (a simplified registration form for companies that have met prior reporting requirements) for smaller reporting companies that have a class of common equity securities listed and registered on a national securities exchange. These companies would be allowed to register primary securities offerings exceeding one-third of the aggregate market value of voting and non-voting common equity held by non-affiliates of the registrant. H.R. 2357 would also allow smaller reporting companies without a class of common equity securities listed and registered on a national securities exchange to register primary securities offerings up to one-third of their public float.

Resolution to name a new Republican Member of the Committee to subcommittees

The Committee will consider a resolution to name one or more Members of the Republican Conference to be members of the subcommittees, as authorized by the resolution to adopt rules of the Committee on Financial Services adopted at the Committee's organizational meeting on January 13 and 14, 2015.

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