

M E M O R A N D U M

To: Members of the Committee on Financial Services
From: FSC Committee Majority Staff
Date: May 20, 2013
Subject: May 23, 2013 Subcommittee on Capital Markets and Government Sponsored Enterprises Hearing on “Legislative Proposals to Relieve the Red Tape Burden on Investors and Job Creators”

The Subcommittee on Capital Markets and Government Sponsored Enterprises will hold a hearing at 9:30 a.m. on Thursday, May 23, 2013, on “Legislative Proposals to Relieve the Red Tape Burden on Investors and Job Creators.” This will be a one-panel hearing with the following witnesses:

- Mercer Bullard, Jessie D. Puckett, Jr., Lecturer and Associate Professor of Law, University of Mississippi School of Law
- Kenneth R. Ehinger, President & CEO, M Holdings Securities, Inc., on behalf of the Association for Advanced Life Underwriting
- Thomas Quaadman, Vice President, Center for Capital Markets Competitiveness, U.S. Chamber of Commerce
- Marc A. Reich, President, Ironwood Capital, on behalf of the Small Business Investor Alliance
- Damon Silvers, Director of Policy & Special Counsel, AFL-CIO
- Robert E. Smith, Corporate Secretary, Vice President and Deputy General Counsel, NiSource Inc., on behalf of the Society of Corporate Secretaries and Governance Professionals
- Charles G. Tharp, Chief Executive Officer, Center on Executive Compensation

Legislation

This hearing will examine four legislative proposals:

- H.R. 1135, the Burdensome Data Collection Relief Act
- H.R. 1105, Small Business Capital Access and Job Preservation Act
- H.R. 1564, Audit Integrity and Job Protection Act
- H.R. _____, to amend Section 913 of the Dodd-Frank Act

H.R. 1135, the Burdensome Data Collection Relief Act

Introduced by Rep. Bill Huizenga, H.R. 1135, the Burdensome Data Collection Relief Act, would repeal Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer

Protection Act (P.L. 111-203). Section 953 requires public companies to include disclosures in their annual proxy statements that permit shareholders to compare the compensation of the firm's executives to its financial performance. Section 953(b) also requires publicly traded companies to calculate and disclose in each filing with the Securities and Exchange Commission (SEC) the median annual total compensation of all of its employees excluding its chief executive officer, disclose its chief executive officer's annual total compensation, and calculate and disclose a ratio comparing those two numbers.

In the 112th Congress, Representative Nan Hayworth introduced a similar bill (H.R. 1062), which passed the Committee by a vote of 33 yeas and 21 nays on June 22, 2011.

H.R. 1105, the Small Business Capital Access and Job Preservation Act

Introduced by Rep. Robert Hurt, H.R. 1105, the Small Business Capital Access and Job Preservation Act, would exempt advisers to certain private equity funds from the new registration requirements imposed by Title IV of the Dodd-Frank Act. Specifically, H.R. 1105 would exempt from SEC registration advisers to private equity funds that have not borrowed and that do not have outstanding a principal amount in excess of twice their funded capital commitments.

In the 112th Congress, Rep. Hurt introduced a similar bill (H.R. 1082), which the Committee passed by a voice vote on June 22, 2011.

H.R. 1564, the Audit Integrity and Job Protection Act

Introduced by Rep. Robert Hurt, H.R. 1564, the Audit Integrity and Job Protection Act, would prohibit the Public Company Accounting and Oversight Board (PCAOB) from requiring that the audits of a particular issuer be conducted by specific auditors, or that such audits be conducted by different auditors on a rotating basis. This legislation was drafted in response to the PCAOB's August 16, 2001 *Concept Release on Auditor Independence and Audit Firm Rotation*, which sought public comment on "whether mandatory auditor rotation would significantly enhance auditors' objectivity and ability and willingness to resist management pressure."¹

H.R. ____ , to amend Section 913 of the Dodd-Frank Act

Rep. Wagner has circulated a discussion draft of legislation to amend Section 913 of the Dodd-Frank Act. Section 913(g)(1) of the Dodd-Frank Act authorizes, but does not require, the SEC to promulgate rules to extend the fiduciary standard of conduct applicable to investment advisors to broker dealers. Rep. Wagner's discussion draft prohibits the SEC from promulgating such a rule before (1) the SEC determines whether retail customers are being harmed because broker-dealers are held to a standard different from that which applies to investment advisors; (2) the SEC's chief economist assesses the costs and benefits of the rule; and (3) the SEC determines that the benefits of the rule justify its costs,

¹ PCAOB Release No. 2011-006, *Concept Release on Auditor Independence and Audit Firm Rotation*, Aug. 16, 2011, available at http://pcaobus.org/Rules/Rulemaking/Docket037/Release_2011-006.pdf.

Members of the Committee

May 23, 2013

Page 3

identifies and assesses available alternatives, ensures that the rule is accessible, consistent, written in plain language, and easy to understand, and that the rule measures and seeks to improve the actual results of regulatory requirements.