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: February 26, 2016

Subject: March 2, 2016, Full Committee Markup

The Committee on Financial Services will meet to mark up the following measures at 10:00 a.m. on Wednesday, March 2, 2016, and subsequent days if necessary, in room 2128 of the Rayburn House Office Building:

H.R. 2121, the SAFE Transitional Licensing Act of 2015

Introduced by Representative Stivers, the "SAFE Transitional Licensing Act" amends the S.A.F.E. Mortgage Licensing Act of 2008 to provide temporary loan-origination authority for registered loan originators: (1) moving from a financial institution to a state-licensed non-bank originator, or (2) moving interstate to a state-licensed loan originator in another state.

H.R. 2896, the Taking Account of Institutions with Low Operation Risk (TAILOR) Act of 2015

Introduced by Representative Tipton, the "TAILOR Act" directs the federal financial institutions regulatory agencies to tailor their rulemakings in consideration of the risk profiles and business models of institutions that would be subject to such rules. The bill also directs such agencies to annually report to Congress and testify regarding the specific actions taken to tailor their regulatory actions.

H.R. 2901, the Flood Insurance Market Parity and Modernization Act

Introduced by Representative Ross, the "Flood Insurance Modernization Act" amends the Flood Disaster Protection Act to clarify that flood insurance offered by a private carrier outside of the National Flood Insurance Program (NFIP) can satisfy the Act's mandatory purchase requirement. H.R. 2901 defines acceptable private flood insurance as a policy providing flood insurance coverage that is issued by an insurance company that is licensed, admitted, or otherwise approved to engage in the business of insurance in the state or jurisdiction in which the insured property is located. Under H.R. 2901, an acceptable private flood insurance policy may also be issued by an insurance company that is eligible as a non-admitted insurer to provide insurance in the state or jurisdiction where the property to be insured is located.

H.R. 3798, the Due Process Restoration Act of 2015

Introduced by Representative Garrett, the "Due Process Restoration Act" provides respondents in Securities and Exchange Commission (SEC) enforcement cases with the ability to have their case removed to a federal district court and out of the SEC's administrative in-house proceedings. The SEC's in-house tribunals have come under criticism lately for using procedures that favor the interests of the SEC, as respondents are not afforded the same protections as they would receive under the Federal Rules of Civil Procedure and the Federal Rules of Evidence that apply in federal district court. The respondents do not have the opportunity to have a jury trial, and any appeals of the administrative proceeding are first heard by the very same SEC Commissioners that authorized the enforcement action.

H.R. 4096, the Investor Clarity and Bank Parity Act

Introduced by Representatives Capuano and Stivers, the "Investor Clarity and Bank Parity Act" amends Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, also known as the Volcker Rule, to correct a statutory error that the five federal regulators charged with implementing the Volcker Rule (the Federal Reserve, the SEC, the Commodity Futures Trading Commission, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) cannot fix using their regulatory authority. When the federal regulators adopted the Volcker Rule in December 2013, the final rule limited the ability of bank holding companies and their affiliates, which would include investment advisers, to sponsor hedge funds and private equity funds (also known as covered funds). Consequently, a covered fund cannot use the name of a sponsor. H.R. 4096 eliminates this prohibition and simply allows an investment adviser to share a similar name with a covered fund.

H.R. 4139, the Fostering Innovation Act of 2015

Introduced by Representatives Sinema and Fitzpatrick, the "Fostering Innovation Act" extends the exemption from Section 404(b) of the Sarbanes-Oxley Act (SOX) for emerging growth companies (EGCs) that would otherwise lose their SOX 404(b) exempt status at the end of the five-year EGC period that exists under current law. The legislation extends the SOX 404(b) exemption until the earlier of ten years after the company went public, the end of the fiscal year in which the EGC's average gross revenues exceed $50 million, or when the EGC becomes a large accelerated filer ($700 million public float) with the SEC. SOX Section 404(b) costs disproportionately burden smaller companies and startup enterprises that do not have sufficient revenue streams to devote to SOX compliance costs.

H.R. 4166, the Expanding Proven Financing for American Employers Act

Introduced by Representatives Barr and David Scott of Georgia, the "Expanding Proven Financing for American Employers Act" amends the risk retention requirements contained in Section 941 of the Dodd-Frank Act for managers that organize "qualified collateralized loan obligations" or "QCLOs." The bill establishes objective and substantive criteria to qualify as a QCLO and defines the types of investors who would be eligible to purchase the QCLO. According to testimony received by the Subcommittee on Capital Markets and Government Sponsored Enterprises on February 24, 2016, as of January 2016, "CLOs provided more than $420 billion in

financing to U.S. non-investment grade companies like Del Monte, Chrysler and United Continental Airlines. All told, more than 1,200 companies – employing more than six million people –receive financing from CLOs." On February 16, 2016, Moody's published a report noting that U.S. non-investment grade companies will have a record amount of debt coming due through 2020; this debt will need to be refinanced or the companies could face a credit crunch, which is why H.R. 4166 is necessary to distinguish CLOs from other asset classes.

H.R. 4498, the Helping Angels Lead Our Startups (HALOS) Act

Introduced by Representatives Chabot (OH), Hurt, Sinema and Takai (HI), the "HALOS Act" builds on the success of the Jumpstart Our Business Startups (JOBS) Act from 2012 and furthers its mission to promote access to investment capital for small companies by ensuring that startups can continue to connect with Angel Investors. H.R. 4498 defines an angel investor for purposes of the Federal securities laws and clarifies the definition of general solicitation contained in the Securities Act of 1933 to ensure startups have the opportunity and ability to discuss their products and business plans at certain events where there is no specific investment offering.

H.R. 4620, the Preserving Access to CRE Capital Act of 2016

Introduced by Representative Hill, the "Preserving Access to CRE Capital Act" recognizes the importance of commercial real estate loans and commercial mortgage backed securities throughout the broader economy. The legislation amends the risk retention requirements mandated by Section 941 of the Dodd-Frank Act for certain "qualified" commercial real estate loans. The bill provides modest relief for one sector of commercial mortgage backed securities knowns as the Single Asset Single Borrower Market (SASB). Applying risk retention requirements under current law to commercial real estate securitizations adds increases costs to the security, which are borne by borrowers, which in turn reduces returns to investors.

H.R. 4638, the Main Street Growth Act

Introduced by Representative Garrett, the "Main Street Growth Act" allows for the creation and registration of venture exchanges with the SEC. Venture exchanges are a logical extension of the JOBS Act for companies that are seeking a liquid and vibrant secondary market for the trading of their securities. Companies that take advantage of the EGC designation from Title I and the Reg A+ offerings from Title IV of the JOBS Act would look to a venture exchange to aggregate all trading activity and liquidity for the securities that choose to list on a venture exchange. The SEC informed the Committee in 2014 that the Securities Exchange Act of 1934 does not provide the SEC with the legal authority to register venture exchanges. The legislation both defines a venture security, establishes the types of securities eligible for a venture exchange listing, and provides the rules and regulations with which venture exchanges must comply.

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