

MEMORANDUM

To: Members of the Committee on Financial Services
From: Financial Services Committee Majority Staff
Date: October 5, 2017
Subject: October 11, 2017, 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 October 11, 2017, and subsequent days if necessary, in room 2128 of the Rayburn House Office Building:

H.R. 477, Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification Act of 2017

Introduced by Representative Bill Huizenga, the “Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification Act of 2017” amends Section 15(b) of the Securities Exchange Act of 1934 to exempt from registration mergers and acquisitions (M&A) brokers performing services in connection with the transfer of ownership of smaller privately held companies with gross revenues of less than \$250,000,000. This bill also outlines exclusions and disqualifications from this exemption for broker dealers.

H.R. 1116, TAILOR Act of 2017

Introduced by Representative Tipton, the “TAILOR Act of 2017” directs the federal financial institutions regulatory agencies to tailor their rulemakings in consideration of the risk profiles and business models of institutions that are 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. 1585, Fair Investment Opportunities for Professional Experts Act

Introduced by Representative David Schweikert, the “Fair Investment Opportunities for Professional Experts Act,” as proposed to be modified by an amendment in the nature of a substitute expected to be offered by Representative Hill, amends the Securities Act of 1933 to modify the definition of accredited investor

to include: (1) persons whose individual net worth, including their spouse's, exceeds \$1,000,000, excluding the value of their primary residence; (2) persons with an individual income greater than \$200,000, or joint income with one's spouse greater than \$300,000; (3) persons with a current securities-related license; and (4) persons whom the U.S. Securities and Exchange Commission (SEC) determines have demonstrable education or job experience to qualify as having professional subject-matter knowledge related to a particular investment.

H.R. 1645, Fostering Innovation Act of 2017

Introduced by Representatives Kyrsten Sinema and Trey Hollingsworth, the "Fostering Innovation Act of 2017" amends Section 404(b) of the Sarbanes-Oxley Act (SOX) to extend the exemption to comply with the law for emerging growth companies (EGCs) that would otherwise lose their exempt status at the end of the five-year period that applies under current law. The bill also extends the exemption until the earlier of ten years after the EGC went public, the end of the fiscal year in which the EGC's average gross revenues exceed \$50 million, or when the EGC qualifies with the SEC as a large accelerated filer (\$700 million public float, which is the number of shares that are able to trade freely between investors that are not controlled by corporate officers or promoters).

H.R. 1699, Preserving Access to Manufactured Housing Act of 2017

Introduced by Representative Andy Barr, the "Preserving Access to Manufactured Housing Act of 2017" amends the Truth in Lending Act (TILA) to modify the definitions of a mortgage originator and a high-cost mortgage, to provide technical clarifications to the definition of a "mortgage originator" for purposes of TILA. The bill also amends the definition of a high cost mortgage and corresponding thresholds to ensure that consumers of small-balance mortgage loans will have the opportunity to have access to mortgage credit.

H.R. 2121, Pension, Endowment, and Mutual Fund Access to Banking Act

Introduced by Representative Keith Rothfus, the "Pension, Endowment, and Mutual Fund Access to Banking Act," as proposed to be modified by an amendment in the nature of a substitute expected to be offered by Representative Rothfus, specifies that a custodial bank shall exclude central bank placements from the calculations to determine the applicable supplementary leverage ratio.

H.R. 2148, Clarifying Commercial Real Estate Loans

Introduced by Representative Robert Pittenger, the "Clarifying Real Estate Loans" provides clarity to capital requirements for certain acquisition, development, or construction loans by permitting the appraised value of real property to count toward a 15 percent equity threshold in order to be exempted from a High Volatility Commercial Real Estate (HVCRE) designation as otherwise required under Basel III.

The bill also provides an off-ramp from HVCRE designation when a loan matures and qualifies for underwriting standards for permanent financing. The bill also exempts loans made prior to January 1, 2015, when the Basel III rule took effect.

H.R. 2201, Micro Offering Safe Harbor Act

Introduced by Representative Tom Emmer, the “Micro Offering Safe Harbor Act” amends the Securities Act of 1933 to exempt certain micro-offerings from the Act’s registration requirements. Small businesses would not violate the Act when making a non-public securities offering if all of the following requirements are met: (1) each purchaser has a substantive pre-existing relationship with an officer, director, or shareholder with 10 percent or more of the shares of the issuer; (2) the issuer reasonably believes that there are no more than 35 purchasers of securities from the issuer that are sold in reliance on the exemption during the 12-month period preceding the transaction; and (3) the aggregate amount of all securities sold by the issuer does not exceed \$500,000 over a 12-month period. The bill also prohibits a bad-actor from participating in a micro-offering.

H.R. 2396, Privacy Notification Technical Clarification Act

Introduced by Representative David Trott, the “Privacy Notification Technical Clarification Act” as proposed to be modified by an amendment in the nature of a substitute expected to be offered by Representative Trott, amends the Gramm-Leach-Bliley Act to reduce confusion among consumers that can occur when they receive annual privacy notices, by clarifying that financial institutions are not required to provide an annual privacy notice disclosure so long as the institution makes its current policy available to consumers online or at the consumer’s request, and the institution conspicuously notifies consumers of the available policy.

H.R. 2706, Financial Institution Customer Protection Act of 2017

Introduced by Representative Blaine Luetkemeyer, the “Financial Institution Customer Protection Act of 2017” prohibits a federal banking agency from directing a depository institution to terminate an account, absent a material reason. As proposed to be modified by an amendment in the nature of a substitute expected to be offered by Representative Luetkemeyer, the bill requires a federal banking agency to provide a depository institution written justification of any request to terminate or restrict a customer account, except in instances of national security. The bill also requires the federal banking agencies to issue an annual report to Congress that describes the number of customer accounts the agency requested or caused to be closed and the legal authority on which the agency relied.

H.R. 2954, Home Mortgage Disclosure Adjustment Act

Introduced by Representative Emmer, the “Home Mortgage Disclosure Adjustment Act” as proposed to be modified by an amendment in the nature of a

substitute expected to be offered by Representative Emmer, amends the Home Mortgage Disclosure Act of 1975 to exempt from maintenance of mortgage loan records and disclosure requirements depository institutions that have originated in each of the two preceding calendar years, fewer than 500 closed-end mortgage loans, and fewer than 500 open-end lines of credit.

H.R. 3072, Bureau of Consumer Financial Protection Examination and Reporting Threshold Act of 2017

Introduced by Representative Lacy Clay, the “Bureau of Consumer Financial Protection Examination and Reporting Threshold Act of 2017” amends the Consumer Financial Protection Act of 2010 to raise the examination threshold that brings an insured depository institution or insured credit union under supervision by the Consumer Financial Protection Bureau’s (CFPB) from assets of \$10 billion or more to assets of \$50 billion or more. The bill also increases from \$10 billion to \$50 billion the threshold at which an insured depository institution or insured credit union is subject to CFPB reporting requirements.

H.R. 3299, Protecting Consumers Access to Credit Act of 2017

Introduced by Representative Patrick McHenry, the “Protecting Consumers Access to Credit Act of 2017” amends the Revised Statutes and the Federal Deposit Insurance Act to clarify that bank loans that are valid as to their maximum rate of interest in accordance with federal law when made shall remain valid with respect to that rate regardless of whether a bank has subsequently sold or assigned the loan to a third party.

H.R. 3312, Systemic Risk Designation Improvement Act of 2017

Introduced by Representative Luetkemeyer, the “Systemic Risk Designation Improvement Act of 2017” amends the Dodd-Frank Wall Street Reform and Consumer Protection Act to remove the arbitrary \$50 billion asset threshold used to designate firms as “systemically important financial institutions” and subject them to enhanced regulatory standards. The bill also authorize the Financial Stability Oversight Council (FSOC) to subject a bank holding company to enhanced supervision and prudential standards by the Board of Governors of the Federal Reserve System (the Federal Reserve), if an institution has been identified as global systemically important bank (G-SIB) under the indicator-based measurement approach established under section 217.402 of title 12, Code of Federal Regulations. This measurement is based on a particular institution’s “systemic indicator scores,” which reflects size, interconnectedness, cross-jurisdictional activity, substitutability, and complexity relative to the other U.S. and foreign banking organizations identified by the Basel Committee on Banking Supervision and any other banking organization included in the Basel Committee’s sample for a given year.

This bill also substitutes G-SIB status in place of the current monetary threshold as the determinant for the Federal Reserve's authority over bank holding company acquisition restrictions, prohibitions on interlocks between management of different financial companies, and enhanced supervision and prudential standards.

H.R. 3758, Senior Safe Act of 2017

Introduced by Representatives Kyrsten Sinema and Bruce Poliquin, the "Senior Safe Act of 2017" provides that: (1) a supervisor, compliance officer, or legal advisor for a covered financial institution who has received training regarding the identification and reporting of the suspected exploitation of a senior citizen (at least 65 years old) shall not be liable for disclosing such exploitation to a covered agency if the individual made the disclosure in good faith and with reasonable care; and (2) a covered financial institution shall not be liable for such a disclosure by such an individual if the individual was employed by the institution at the time of the disclosure and the institution had provided such training.

H.R. 3857, PASS Act of 2017

Introduced by Representative Ann Wagner, the "Protecting Advice for Small Savers Act of 2017" or "PASS Act" repeals the final rule of the Department of Labor (DOL) titled "Definition of the Term 'Fiduciary' Conflict of Interest Rule--Retirement Investment Advice" and related prohibited transaction exemptions published on April 8, 2016. The bill also amends the second subsection (k) of Section 15 of the Securities Exchange Act of 1934 to require a broker-dealer to act in the retail customer's best interest when providing a recommendation, which must reflect (i) reasonable diligence and (ii) the reasonable care, skill, and prudence that a broker-dealer would exercise based on the customer's investment profile. The bill also requires a broker-dealer to provide increased disclosures to the customer before the broker-dealer may purchase a securities product on behalf of that customer, including disclosures regarding the type and scope of services the broker-dealer provides, the standard of conduct that applies to the relationship, the types of compensation the broker-dealer receives, and any material conflict of interest.

H.R. 3898, Impeding North Korea's Access to Finance Act of 2017

Introduced by Representative Andy Barr, H.R. 3898 would impose secondary financial sanctions with respect to the Democratic Republic of North Korea. The legislation would also incentivize stricter sanctions enforcement by foreign countries, and require regular reports on sanctions implementation from the Department of the Treasury. This legislation includes Presidential waiver authorities that provide for sanctions relief if North Korea takes meaningful steps to limit its development and proliferation of weapons of mass destruction.

H.R. 3903, Encouraging Public Offerings Act of 2017

Introduced by Representatives Ted Budd and Gregory Meeks, the “Encouraging Public Offerings Act of 2017” amends the Securities Act of 1933 to expand to all public companies certain provisions of Title I of the JOBS Act, which previously applied only to an Emerging Growth Company. Specifically, the legislation allows issuers to submit to the SEC for confidential review, before publicly filing, draft registration statements for Initial Public Offerings (IPOs) and for follow-on offerings within one year of an IPO. Additionally, this bill allows all companies to “test-the-waters” before filing an IPO, which means they may meet with qualified institutional buyers and other institutional accredited investors to gauge those investors’ interest in the offering.

H.R. 3911, Risk-Based Credit Examinations Act of 2017

Introduced by Representatives Wagner and Bill Foster, the “Risk-Based Credit Examinations Act of 2017” amends the Securities Exchange Act of 1934 to allow the SEC to perform risk-based examinations of the Nationally Recognized Statistical Rating Organizations or NRSROs.

H.R. 3948, Protection of Source Code Act

Introduced by Representatives Sean Duffy and David Scott, the “Protection of Source Code Act” amends the Securities Act of 1933 to require the SEC to first issue a subpoena before it compels a person to produce or furnish to the SEC algorithmic trading source code or similar intellectual property.

H.R. 3971, Community Institution Mortgage Relief Act

Introduced by Representative Tenney, the “Community Institution Mortgage Relief Act” amends the Truth in Lending Act to direct the Consumer Financial Protection Bureau (CFPB) to exempt from certain escrow or impound requirements a loan secured by a first lien on a consumer's principal dwelling if the loan is held by a creditor with assets of \$25 billion or less. The CFPB must also provide either exemptions to, or adjustments from, the mortgage loan servicing and escrow account administration requirements of the Real Estate Settlement Procedures Act of 1974 for servicers of 30,000 or fewer mortgage loans.

H.R. 3972, Family Office Technical Correction Act of 2017

Introduced by Representative Carolyn Maloney, the “Family Office Technical Correction Act of 2017” clarifies that family offices and family clients, as defined in section 275.202(a)(11)(G)-1 of title 17, Code of Federal Regulations, are accredited investors under Regulation D of the Securities and Exchange Commission.

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H.R. 3973, Market Data Protection Act of 2017

Introduced by Representatives Warren Davidson and Brad Sherman, the “Market Data Protection Act of 2017” amends the Securities Exchange Act of 1934 to require that the SEC, FINRA, and the operator of the Consolidated Audit Trail (CAT), in consultation with the SEC’s Chief Economist, develop comprehensive internal risk control mechanisms to safeguard and govern the storage of market data, all market data sharing agreements, and all academic research using market data. The bill also halts market data reporting to the CAT until the operator of the CAT develops such internal risk control mechanisms.

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