

M E M O R A N D U M

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: June 8, 2018

Subject: June 13, 2018 Subcommittee on Capital Markets, Securities, and Investment Hearing Entitled “Ensuring Effectiveness, Fairness, and Transparency in Securities Law Enforcement”

The Subcommittee on Capital Markets, Securities, and Investment will hold a hearing entitled “Ensuring Effectiveness, Fairness, and Transparency in Securities Law Enforcement” on Wednesday, June 13, at 2:00 p.m. in Room 2128 of the Rayburn House Office Building. The hearing is one panel with the following witnesses:

- Mr. Bradley Bondi, Partner, Cahill Gordon & Reindel LLP
- Mr. Joseph Borg, Director, Alabama Securities Commission
- Mr. Thomas Quaadman, Vice President, Center for Capital Markets Competitiveness, U.S. Chamber of Commerce
- Mr. Andrew Vollmer, Professor of Law and Director, John W. Glynn Jr. Law & Business Program, University of Virginia School of Law

The purpose of this hearing is to comment on the U.S. Securities and Exchange Commission’s (SEC) approach to enforcing the Federal securities laws and whether its activities and initiatives are complimentary to all three prongs of its statutory mission to protect investors, to maintain fair, orderly, and efficient markets, and to facilitate capital formation. The hearing will discuss areas of the law that would benefit from greater clarity to ensure that SEC investigations have an appropriate scope and minimize instances of the practice known as regulation by enforcement. Additionally, the hearing will examine the role of administrative proceedings in the enforcement of the Federal securities laws, including whether Congress should advance legislation like H.R. 2128, the “Due Process Restoration Act of 2017.” The hearing also will explore whether Congress should clarify the SEC’s authority to seek disgorgement, including what is the appropriate statute of limitations for disgorgement sought by the SEC.

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Further, the hearing will examine whether a lack of clarity between federal and at least some state standards for securities fraud or other potential violations is chilling participation in our capital markets and whether Congress should act to enhance clarity for national issuers regarding how the securities laws will be applied, such as is proposed in H.R. 5037, the “Securities Fraud Act of 2018.”