

MEMORANDUM

To: Members of the Committee on Financial Services

From: Financial Services Committee Majority Staff

Date: September 10, 2018

Subject: September 13, 2018 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 9:00 am on Thursday, September 13, and subsequent days if necessary, in room 2128 of the Rayburn House Office Building:

H.R. 2128, the “Due Process Restoration Act of 2017”

Introduced on April 25, 2017, by Representative Warren Davidson, H.R. 2128, the “Due Process Restoration act of 2017”, simply 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 ability for the SEC to control the forum in which an action is brought raises due process concerns because the SEC’s in-house tribunals do not guarantee respondents the same types of rules and processes that help ensure fairness in the U.S. justice system. For example, SEC administrative proceedings do not afford respondents the same protections as they would receive under the Federal Rules of Civil Procedure and the Federal Rules of Evidence, and respondents do not have the opportunity to have a jury trial. Finally, the bill establishes the standard of proof required to be used in an action brought by the SEC in an administrative proceeding.

H.R. 4753, the Federal Reserve Supervision Testimony Clarification Act

Section 1108 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Federal Reserve Act and established the position of Vice Chairman for Supervision at the Board of Governors of the Federal Reserve (Federal Reserve). The amendments require the Vice Chairman to testify semi-annually before the Senate Banking Committee and the House Financial Services Committee. Introduced by Representative Frank Lucas on January 10, 2018, H.R. 4753 would further amend

Section 10 of the Federal Reserve Act to require the Vice Chairman of the Federal Reserve to testify if the Vice Chairman for Supervision is vacant. If both Vice Chairmen positions are vacant, the Chairman of the Federal Reserve would provide the Congressional testimony to fulfill the statutory requirement. An amendment in the nature of a substitute to be offered by Rep. Lucas makes technical, conforming and clarifying changes to the introduced version.

H.R. 4758, the “FOMC Policy Responsibility Act”

Introduced by Representative Claudia Tenney on January 10, 2018, H.R. 4758 would amend Section 19 of the Federal Reserve Act to require that the Federal Open Market Committee of the Federal Reserve sets Interest on Excess Reserves instead of the members of the Board of Governors.

H.R. 5534, the “Give Useful Information to Define Effective Compliance Act” or the “GUIDE Compliance Act”

Introduced by Representatives Sean Duffy and Ed Perlmutter on April 17, 2018, H.R. 5534 amends the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Act, to provide procedures for guidance issued by the Bureau of Consumer Financial Protection (BCFP). The legislation would compel the BCFP to issue guidance, including guidance necessary to comply with the law, establishes clear standards for that guidance and how it is issued, and provides a safe harbor for good faith reliance on guidance issued by the Bureau.

H.R. 6021, the “Small Business Audit Correction Act of 2018”

Introduced on June 6, 2018, by Representatives French Hill and Vicente Gonzalez, H.R. 6021, to be modified by an amendment in the nature of a substitute offered by Rep. Hill, narrowly tailors an exception for privately-held, small non-custodial brokers and dealers in good standing from the requirement to hire a Public Company Accounting Oversight Board (PCAOB)-registered audit firm in order to meet the annual Securities Exchange Act Rule 17a-5 reporting obligation. Current regulations require all brokers and dealers—irrespective of whether they are public companies, their size, or whether they take custody of client funds or securities—to hire a PCAOB-registered audit firm to conduct audits and be subject to the PCAOB’s registration, inspection, rule-making and enforcement regime.

HR 6158, the “Brokered Deposit Affiliate-Subsidiary Modernization Act of 2018”

Introduced on June 20, 2018 by Representatives Scott Tipton, Lacy Clay and Gregory Meeks, H.R. 6158 bill amends the Federal Deposit Insurance Act to exclude affiliates and subsidiaries of insured depository institutions in the definition of deposit broker. The bill would exempt funds placed with a bank by an affiliate or subsidiary, including employees of an affiliate or subsidiary, from the definition of “deposit

broker”. This amendment recognizes that customers of a bank’s affiliates view themselves as having a relationship with the entire firm and reflects the demonstrated stability of deposits that originate from customers of a bank’s affiliates.

H.R. 6411, the “FinCEN Improvement Act”

Introduced on July 17, 2018 by Representatives Ed Perlmutter and Steve Pearce, H.R. 6411 would update the Financial Crimes Enforcement Network’s (FinCEN) authorizing statute to recognize tribal law enforcement agencies, prioritize protection against all types of terrorism, and ensure a focus on emerging methods of terrorism and illicit finance, including cryptocurrencies. Currently, the duties and powers of FinCEN are specific to “international terrorism” and leave out tribal law enforcement and do not address emerging technologies. This bill would ensure law enforcement and intelligence agencies can detect and prevent criminals and terrorist networks from exploiting virtual currencies to move illicit funds or carry out cyberwarfare.

H.R. 6721, the “FinCEN Modernization Act”

Introduced on September 6, 2018 by Representative Ted Budd, H.R. 6721 would provide FinCEN with the ability to utilize Other Transaction Authority and Gift Acceptance Authority to develop and maintain research, development, and information sharing programs related to financial technology, data analysis, cryptocurrencies, and information sharing for five years. The legislation would require annual reports to Congress about the use of these authorities. An amendment in the nature of a substitute to be offered by Mr. Budd would clarify the legislation’s reporting requirements.

H.R. 6729, the “Empowering Financial Institutions to Fight Human Trafficking Act”

Introduced on September 7, 2018 by Representatives Ann Wagner, Carolyn Maloney and Mia Love, H.R. 6729 would allow qualified 501(c)3 nonprofit organizations, upon notice to the Secretary of the Treasury, to share information that may involve human trafficking and money laundering with financial institutions, their regulatory authorities, and law enforcement agencies under a safe harbor that offers liability protections.

HR 6737, the “Protect Affordable Mortgages for Veterans Act”

Introduced on September 7, 2018 by Representative Lee Zeldin, H.R. 6737 amends Section 306 of the National Housing Act as amended by Section 309 – Protecting Veterans from Predatory Lending – of the “Economic Growth, Regulatory Relief, and Consumer Protection Act’ (Pub. L. No. 115-174). The legislation provides a technical fix so that recently executed loans refinanced by the Department of Veterans Affairs can remain eligible for pooling in Ginnie Mae securities.

HR 6741, the “Federal Reserve Reform Act”

Introduced on September 7, 2018 by Representative Andy Barr, H.R. 6741 amends the Federal Reserve Act and makes a series of reforms to the operation of the Federal Reserve System. The legislation requires the Federal Open Markets Committee (FOMC) to annually adopt a plain English monetary policy strategy, as well as up to three reference rules that can increase policy transparency. This legislation also protects the Federal Reserve from political pressures to engage in credit policies through either unconventional asset purchases or emergency lending. H.R. 6741 also expands the FOMC so that all Federal Reserve Districts can vote in each meeting, and provides for the FOMC (not the Board of Governors) to set interest rates on reserves (required and excess). Finally, this legislation subjects the non-monetary policy functions of the Federal Reserve to the regular appropriations process; restores full voting rights of Class A Directors at the district banks; clarifies the blackout period associated with FOMC meetings; dedicates two individuals to staff each member of the Board of Governors; strengthens Federal Reserve staff salary disclosures and investment rules; clarifies procedures for Congressional testimony in the absence of a Vice Chair for Supervision at the Board of Governors; and establishes a single mandate for stable prices.

H.R. 6743, the “Consumer Information Notification Requirement Act”

Introduced on September 7, 2018 by Representative Blaine Luetkemeyer, H.R. 6743 establishes a federal standard on data security and breach notification based on the 2005 Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice (70 FR 15736), which requires Gramm-Leah-Bliley Act (GLBA) defined financial institutions to provide consumer notification in instances of unauthorized access to non-public personal identifiable information GLBA defined financial institutions are defined as businesses that are engaged in certain “financial activities” described in Section 4(k) of the Bank Holding Company Act of 1956 and accompanying regulations. Such activities include traditional banking, lending, and insurance functions, along with other financial activities. For insurance companies, the bill would preempt state law similar to the way it would cover financial institutions, requiring establishment of standards similar to the federal guidelines but retains sole enforcement authority for state insurance regulators.

HR 6745, the “Access to Capital Creates Economic Strength and Supports Rural America Act” or the “ACCESS Rural America Act”

Introduced on September 7, 2018, by Representatives Sean Duffy and Kyrsten Sinema, H.R. 6745 amends section 12(g) of the Securities Exchange Act of 1934 to raise the threshold for issuers who receive support through a Federal universal service support mechanism to register as a public reporting company with the SEC. Specifically, the bill raises the threshold for such issuers who have total assets

exceeding \$10,000,000 from 500 non-accredited investors to 1,250, with the dollar threshold indexed for inflation. Additionally, the bill requires the SEC to issue regulations to establish a financial summary form that may be filed by such issuers that includes a summary of the consolidated balance sheet and the consolidated income statement of the issuer, as well as any other information the SEC determines is necessary. Finally, the SEC shall conduct a study 3 years after enactment on the effects of the bill on such issuers and to what extent it has improved capital formation and whether shareholder thresholds for registration should be adjusted for other issuers.

H.R. 6751, the “Banking Accountability for Sponsors of Terrorism Act”

Introduced on September 7, 2018 by Representative Mia Love, H.R. 6751 requires the Secretary of the Treasury to provide the Committees on Financial Services and Banking, Housing and Urban Affairs with a copy of licenses that authorize financial institutions to conduct transactions benefitting state sponsors of terrorism. The legislation would also require a report to the committees listing any foreign financial institutions that engage in transactions with 1) sanctioned persons that are tied to the governments of state sponsors of terrorism, and 2) persons sanctioned for certain human rights abuses (including Russia-specific sanctions).