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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

# H. R.

To direct the Securities and Exchange Commission to provide a safe harbor related to certain investment fund research reports, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. HILL introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To direct the Securities and Exchange Commission to provide a safe harbor related to certain investment fund research reports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Access to Invest-  
5 ment Research Act of 2015”.

6 **SEC. 2. SAFE HARBOR FOR INVESTMENT FUND RESEARCH.**

7 (a) EXPANSION OF SAFE HARBOR.—Not later than  
8 the end of the 45-day period beginning on the date of en-

1 actment of this Act, the Securities and Exchange Commis-  
2 sion shall propose, and not later than the end of the 120-  
3 day period beginning on such date, the Commission shall  
4 adopt, upon such terms, conditions, or requirements as the  
5 Commission may determine necessary or appropriate in  
6 the public interest, for the protection of investors, and for  
7 the promotion of capital formation, revisions to section  
8 230.139 of title 17, Code of Federal Regulations, to pro-  
9 vide that a covered investment fund research report—

10 (1) shall be deemed, for purposes of sections  
11 2(a)(10) and 5(c) of the Securities Act of 1933, not  
12 to constitute an offer for sale or an offer to sell a  
13 security that is the subject of an offering pursuant  
14 to a registration statement that the issuer proposes  
15 to file, or has filed, or that is effective, even if the  
16 broker or dealer is participating or will participate  
17 in the registered offering of the covered investment  
18 fund's securities; and

19 (2) shall be deemed to satisfy the conditions of  
20 subsection (a)(1) or (a)(2) of section 230.139 of title  
21 17, Code of Federal Regulations, or any successor  
22 provisions, for purposes of the Commission's rules  
23 and regulations under the Federal securities laws  
24 and the rules of any self-regulatory organization.

1 (b) IMPLEMENTATION OF SAFE HARBOR.—In imple-  
2 menting the safe harbor pursuant to subsection (a), the  
3 Commission shall—

4 (1) not, in the case of a covered investment  
5 fund with a class of securities in substantially con-  
6 tinuous distribution, condition the safe harbor on  
7 whether the broker's or dealer's publication or dis-  
8 tribution of a covered investment fund research re-  
9 port constitutes such broker's or dealer's initiation  
10 or reinitiation of research coverage on such covered  
11 investment fund or its securities;

12 (2) not—

13 (A) require the covered investment fund to  
14 have been registered as an investment company  
15 under the Investment Company Act of 1940 or  
16 subject to the reporting requirements of section  
17 13 or 15(d) of the Securities Exchange Act of  
18 1934 for any period exceeding twelve months;  
19 or

20 (B) impose a minimum float provision ex-  
21 ceeding that referenced in subsection  
22 (a)(1)(i)(A)(1)(i) of section 230.139 of title 17,  
23 Code of Federal Regulations;

24 (3) provide that a self-regulatory organization  
25 may not maintain or enforce any rule that would—

1 (A) condition the ability of a member to  
2 publish or distribute a covered investment fund  
3 research report on whether the member is also  
4 participating in a registered offering or other  
5 distribution of any securities of such covered in-  
6 vestment fund;

7 (B) condition the ability of a member to  
8 participate in a registered offering or other dis-  
9 tribution of securities of a covered investment  
10 fund on whether the member has published or  
11 distributed a covered investment fund research  
12 report about such covered investment fund or  
13 its securities; or

14 (C) require the filing of a covered invest-  
15 ment fund research report with such self-regu-  
16 latory organization; and

17 (4) provide that a covered investment fund re-  
18 search report shall not be subject to sections 24(b)  
19 or 34(b) of the Investment Company Act of 1940 or  
20 the rules and regulations thereunder.

21 (c) RULES OF CONSTRUCTION.—Nothing in this Act  
22 shall be construed as in any way limiting—

23 (1) the applicability of the antifraud provisions  
24 of the Federal securities laws; or

1           (2) the authority of any self-regulatory organi-  
2           zation to examine or supervise a member's practices  
3           in connection with such member's publication or dis-  
4           tribution of a covered investment fund research re-  
5           port for compliance with otherwise applicable provi-  
6           sions of the Federal securities laws or self-regulatory  
7           organization rules.

8           (d) INTERIM EFFECTIVENESS OF SAFE HARBOR.—  
9           From and after the 120-day period beginning on the date  
10          of enactment of this Act, if the Commission has not met  
11          its obligations pursuant to subsection (a) to adopt revi-  
12          sions to section 230.139 of title 17, Code of Federal Regu-  
13          lations, and until such time as the Commission has done  
14          so, a covered investment fund research report published  
15          or distributed by a broker or dealer after such date shall  
16          be deemed to meet the requirements of section 230.139  
17          of title 17, Code of Federal Regulations, and to satisfy  
18          the conditions of subsection (a)(1) or (a)(2) thereof for  
19          purposes of the Commission's rules and regulations under  
20          the Federal securities laws and the rules of any self-regu-  
21          latory organization, as if revised and implemented in ac-  
22          cordance with subsections (a) and (b).

23          (e) DEFINITIONS.—For purposes of this Act:

24                 (1) COVERED INVESTMENT FUND RESEARCH  
25          REPORT.—The term “covered investment fund re-

1 search report” means a research report published or  
2 distributed by a broker or dealer about a covered in-  
3 vestment fund or any of its securities;

4 (2) COVERED INVESTMENT FUND.—The term  
5 “covered investment fund” means—

6 (A) an investment company registered  
7 under, or that has filed an election to be treated  
8 as a business development company under, the  
9 Investment Company Act of 1940 and that has  
10 filed a registration statement under the Securi-  
11 ties Act of 1933 for the public offering of a  
12 class of its securities, which registration state-  
13 ment has been declared effective by the Com-  
14 mission; and

15 (B) a trust or other person—

16 (i) that has a class of securities listed  
17 for trading on a national securities ex-  
18 change;

19 (ii) the assets of which consist pri-  
20 marily of commodities, currencies, or deriv-  
21 ative instruments that reference commod-  
22 ities or currencies, or interests in the fore-  
23 going; and

24 (iii) that allows its securities to be  
25 purchased or redeemed, subject to condi-

1                   tions or limitations, for a ratable share of  
2                   its assets.

3                   (3) RESEARCH REPORT.—The term “research  
4                   report” has the meaning given to that term under  
5                   section 2(a)(3) of the Securities Act of 1933, except  
6                   that such term shall not include an oral communica-  
7                   tion.

8                   (4) SELF-REGULATORY ORGANIZATION.—The  
9                   term “self-regulatory organization” has the meaning  
10                  given to that term under section 3(a)(26) of the Se-  
11                  curities Exchange Act of 1934.