

Union Calendar No. 213

114TH CONGRESS
1ST SESSION

H. R. 1839

[Report No. 114-281]

To amend the Securities Act of 1933 to exempt certain transactions involving purchases by accredited investors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2015

Mr. McHENRY introduced the following bill; which was referred to the Committee on Financial Services

OCTOBER 6, 2015

Additional sponsor: Mr. SCHWEIKERT

OCTOBER 6, 2015

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 16, 2015]

A BILL

To amend the Securities Act of 1933 to exempt certain transactions involving purchases by accredited investors, 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 “Reforming Access for*
5 *Investments in Startup Enterprises Act of 2015” or the*
6 *“RAISE Act of 2015”.*

7 **SEC. 2. EXEMPTED TRANSACTIONS.**

8 (a) *EXEMPTED TRANSACTIONS.—Section 4 of the Se-*
9 *curities Act of 1933 (15 U.S.C. 77d) is amended—*

10 (1) *in subsection (a), by adding at the end the*
11 *following new paragraph:*

12 “(7) *transactions meeting the requirements of*
13 *subsection (d).”;*

14 (2) *by redesignating the second subsection (b)*
15 *(relating to securities offered and sold in compliance*
16 *with Rule 506 of Regulation D) as subsection (c); and*

17 (3) *by adding at the end the following:*

18 “(d) *CERTAIN ACCREDITED INVESTOR TRANS-*
19 *ACTIONS.—The transactions referred to in subsection (a)(7)*
20 *are transactions meeting the following requirements:*

21 “(1) *ACCREDITED INVESTOR REQUIREMENT.—*
22 *Each purchaser is an accredited investor, as that*
23 *term is defined in section 230.501(a) of title 17, Code*
24 *of Federal Regulations (or any successor regulation).*

1 “(2) *PROHIBITION ON GENERAL SOLICITATION*
2 *OR ADVERTISING.*—*Neither the seller, nor any person*
3 *acting on the seller’s behalf, offers or sells securities by*
4 *any form of general solicitation or general adver-*
5 *tising.*

6 “(3) *INFORMATION REQUIREMENT.*—*In the case*
7 *of a transaction involving the securities of an issuer*
8 *that is neither subject to section 13 or 15(d) of the Se-*
9 *curities Exchange Act of 1934 (15 U.S.C. 78m;*
10 *78o(d)), nor exempt from reporting pursuant to sec-*
11 *tion 240.12g3-2(b) of title 17, Code of Federal Regula-*
12 *tions, nor a foreign government (as defined in section*
13 *230.405 of title 17, Code of Federal Regulations) eligi-*
14 *ble to register securities under Schedule B, the seller*
15 *and a prospective purchaser designated by the seller*
16 *obtain from the issuer, upon request of the seller, and*
17 *the seller in all cases makes available to a prospective*
18 *purchaser, the following information (which shall be*
19 *reasonably current in relation to the date of resale*
20 *under this section):*

21 “(A) *The exact name of the issuer and the*
22 *issuer’s predecessor (if any).*

23 “(B) *The address of the issuer’s principal*
24 *executive offices.*

1 “(C) The exact title and class of the secu-
2 rity.

3 “(D) The par or stated value of the security.

4 “(E) The number of shares or total amount
5 of the securities outstanding as of the end of the
6 issuer’s most recent fiscal year.

7 “(F) The name and address of the transfer
8 agent, corporate secretary, or other person re-
9 sponsible for transferring shares and stock cer-
10 tificates.

11 “(G) A statement of the nature of the busi-
12 ness of the issuer and the products and services
13 it offers, which shall be presumed reasonably cur-
14 rent if the statement is as of 12 months before
15 the transaction date.

16 “(H) The names of the officers and directors
17 of the issuer.

18 “(I) The names of any persons registered as
19 a broker, dealer, or agent that shall be paid or
20 given, directly or indirectly, any commission or
21 remuneration for such person’s participation in
22 the offer or sale of the securities.

23 “(J) The issuer’s most recent balance sheet
24 and profit and loss statement and similar finan-
25 cial statements, which shall—

1 “(i) be for such part of the two pre-
2 ceding fiscal years as the issuer has been in
3 operation;

4 “(ii) be prepared in accordance with
5 generally accepted accounting principles or,
6 in the case of a foreign private issuer, be
7 prepared in accordance with generally ac-
8 cepted accounting principles or the Inter-
9 national Financial Reporting Standards
10 issued by the International Accounting
11 Standards Board;

12 “(iii) be presumed reasonably current
13 if—

14 “(I) with respect to the balance
15 sheet, the balance sheet is as of a date
16 less than 16 months before the trans-
17 action date; and

18 “(II) with respect to the profit
19 and loss statement, such statement is
20 for the 12 months preceding the date of
21 the issuer’s balance sheet; and

22 “(iv) if the balance sheet is not as of
23 a date less than 6 months before the trans-
24 action date, be accompanied by additional
25 statements of profit and loss for the period

1 *from the date of such balance sheet to a date*
2 *less than 6 months before the transaction*
3 *date.*

4 “(K) *To the extent that the seller is a con-*
5 *trol person with respect to the issuer, a brief*
6 *statement regarding the nature of the affiliation,*
7 *and a statement certified by such seller that they*
8 *have no reasonable grounds to believe that the*
9 *issuer is in violation of the securities laws or*
10 *regulations.*

11 “(4) *ISSUERS DISQUALIFIED.—The transaction*
12 *is not for the sale of a security where the seller is an*
13 *issuer or a subsidiary, either directly or indirectly, of*
14 *the issuer.*

15 “(5) *BAD ACTOR PROHIBITION.—Neither the sell-*
16 *er, nor any person that has been or will be paid (di-*
17 *rectly or indirectly) remuneration or a commission*
18 *for their participation in the offer or sale of the secu-*
19 *rities, including solicitation of purchasers for the sell-*
20 *er is subject to an event that would disqualify an*
21 *issuer or other covered person under Rule 506(d)(1)*
22 *of Regulation D (17 C.F.R. 230.506(d)(1)) or is sub-*
23 *ject to a statutory disqualification described under*
24 *section 3(a)(39) of the Securities Exchange Act of*
25 *1934.*

1 “(6) BUSINESS REQUIREMENT.—*The issuer is
2 engaged in business, is not in the organizational stage
3 or in bankruptcy or receivership, and is not a blank
4 check, blind pool, or shell company that has no spe-
5 cific business plan or purpose or has indicated that
6 the issuer’s primary business plan is to engage in a
7 merger or combination of the business with, or an ac-
8 quisition of, an unidentified person.*

9 “(7) UNDERWRITER PROHIBITION.—*The trans-
10 action is not with respect to a security that con-
11 stitutes the whole or part of an unsold allotment to,
12 or a subscription or participation by, a broker or
13 dealer as an underwriter of the security or a redis-
14 tribution.*

15 “(8) OUTSTANDING CLASS REQUIREMENT.—*The
16 transaction is with respect to a security of a class
17 that has been authorized and outstanding for at least
18 90 days prior to the date of the transaction.*

19 “(e) ADDITIONAL REQUIREMENTS.—

20 “(1) IN GENERAL.—*With respect to an exempted
21 transaction described under subsection (a)(7):*

22 “(A) *Securities acquired in such trans-
23 action shall be deemed to have been acquired in
24 a transaction not involving any public offering.*

1 “(B) Such transaction shall be deemed not
2 to be a distribution for purposes of section
3 2(a)(11).

4 “(C) Securities involved in such transaction
5 shall be deemed to be restricted securities within
6 the meaning of Rule 144 (17 C.F.R. 230.144).

7 “(2) RULE OF CONSTRUCTION.—The exemption
8 provided by subsection (a)(7) shall not be the exclu-
9 sive means for establishing an exemption from the
10 registration requirements of section 5.”.

11 (b) EXEMPTION IN CONNECTION WITH CERTAIN EX-
12 EMPT OFFERINGS.—Section 18(b)(4) of the Securities Act
13 of 1933 (15 U.S.C. 77r(b)(4)) is amended—

14 (1) by redesignating the second subparagraph
15 (D) and subparagraph (E) as subparagraphs (E) and
16 (F), respectively;

17 (2) in subparagraph (E), as so redesignated, by
18 striking “; or” and inserting a semicolon;

19 (3) in subparagraph (F), as so redesignated, by
20 striking the period and inserting “; or”; and

21 (4) by adding at the end the following new sub-
22 paragraph:

23 “(G) section 4(a)(7).”.

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