

Union Calendar No. 274

115TH CONGRESS
1ST SESSION

H. R. 3903

[Report No. 115–374]

To amend the Securities Act of 1933 to expand the ability to use testing the waters and confidential draft registration submissions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2017

Mr. BUDD (for himself and Mr. MEEKS) introduced the following bill; which was referred to the Committee on Financial Services

OCTOBER 31, 2017

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

A BILL

To amend the Securities Act of 1933 to expand the ability to use testing the waters and confidential draft registration submissions, 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 “Encouraging Public
 5 Offerings Act of 2017”.

6 **SEC. 2. EXPANDING TESTING THE WATERS AND CONFIDEN-**
 7 **TIAL SUBMISSIONS.**

8 The Securities Act of 1933 (15 U.S.C. 77a et seq.)
 9 is amended—

10 ~~(1) in section 5(d), by striking “an emerging~~
 11 ~~growth company or any person authorized to act on~~
 12 ~~behalf of an emerging growth company” and insert-~~
 13 ~~ing “an issuer or any person authorized to act on~~
 14 ~~behalf of an issuer”;~~ and

15 *(1) in section 5(d)—*

16 *(A) by striking “Notwithstanding” and in-*
 17 *serting the following:*

18 *“(1) IN GENERAL.—Notwithstanding”;*

19 *(B) by striking “an emerging growth com-*
 20 *pany or any person authorized to act on behalf*
 21 *of an emerging growth company” and inserting*
 22 *“an issuer or any person authorized to act on be-*
 23 *half of an issuer”;* and

24 *(C) by adding at the end the following:*

25 *“(2) ADDITIONAL REQUIREMENTS.—*

1 “(A) *IN GENERAL.*—*The Commission may*
 2 *issue regulations, subject to public notice and*
 3 *comment, to impose such other terms, conditions,*
 4 *or requirements on the engaging in oral or writ-*
 5 *ten communications described under paragraph*
 6 *(1) by an issuer other than an emerging growth*
 7 *company as the Commission determines appro-*
 8 *priate.*

9 “(B) *REPORT TO CONGRESS.*—*Prior to any*
 10 *rulemaking described under subparagraph (A),*
 11 *the Commission shall issue a report to the Con-*
 12 *gress containing a list of the findings supporting*
 13 *the basis of such rulemaking.’; and*
 14 (2) in section 6(e)—

15 (A) in the heading, by striking “EMERG-
 16 ING GROWTH COMPANIES” and inserting
 17 “DRAFT REGISTRATION STATEMENTS”;

18 (B) by redesignating paragraph (2) as
 19 ~~paragraph (3)~~ *paragraph (4)*; and

20 (C) by striking paragraph (1) and insert-
 21 ing the following:

22 “(1) *PRIOR TO INITIAL PUBLIC OFFERING.*—
 23 Any issuer, prior to its initial public offering date,
 24 may confidentially submit to the Commission a draft
 25 registration statement, for confidential nonpublic re-

1 view by the staff of the Commission prior to public
2 filing, provided that the initial confidential submis-
3 sion and all amendments thereto shall be publicly
4 filed with the Commission not later than 15 days be-
5 fore the date on which the issuer conducts a road
6 show (as defined under section 230.433(h)(4) of title
7 17, Code of Federal Regulations) or, in the absence
8 of a road show, at least 15 days prior to the re-
9 quested effective date of the registration statement.

10 “(2) WITHIN ONE YEAR AFTER INITIAL PUBLIC
11 OFFERING OR EXCHANGE REGISTRATION.—Any
12 issuer, within the one-year period following its initial
13 public offering or its registration of a security under
14 section 12(b) of the Securities Exchange Act of
15 1934, may confidentially submit to the Commission
16 a draft registration statement, for confidential non-
17 public review by the staff of the Commission prior
18 to public filing, provided that the initial confidential
19 submission and all amendments thereto shall be pub-
20 licly filed with the Commission not later than 15
21 days before the date on which the issuer conducts a
22 road show (as defined under section 230.433(h)(4)
23 of title 17, Code of Federal Regulations) or, in the
24 absence of a road show, at least 15 days prior to the

1 requested effective date of the registration state-
2 ment.

3 “(3) *ADDITIONAL REQUIREMENTS.*—

4 “(A) *IN GENERAL.*—*The Commission may*
5 *issue regulations, subject to public notice and*
6 *comment, to impose such other terms, conditions,*
7 *or requirements on the submission of draft reg-*
8 *istration statements described under this sub-*
9 *section by an issuer other than an emerging*
10 *growth company as the Commission determines*
11 *appropriate.*

12 “(B) *REPORT TO CONGRESS.*—*Prior to any*
13 *rulemaking described under subparagraph (A),*
14 *the Commission shall issue a report to the Con-*
15 *gress containing a list of the findings supporting*
16 *the basis of such rulemaking.’’.*

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