

## Union Calendar No. 834

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6021

[Report No. 115–1075]

To amend the Sarbanes-Oxley Act of 2002 to exclude privately held, non-custody brokers and dealers that are in good standing from certain requirements under title I of that Act, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2018

Mr. HILL (for himself and Mr. GONZALEZ of Texas) introduced the following bill; which was referred to the Committee on Financial Services

DECEMBER 12, 2018

Additional sponsor: Mr. BEYER

DECEMBER 12, 2018

Reported with amendments, 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 *italie*]

[For text of introduced bill, see copy of bill as introduced on June 6, 2018]

# **A BILL**

To amend the Sarbanes-Oxley Act of 2002 to exclude privately held, non-custody brokers and dealers that are in good standing from certain requirements under title I of that Act, 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 “Small Business Audit*  
5 *Correction Act of 2018”.*

6 **SEC. 2. EXEMPTION.**

7 *(a) AMENDMENTS TO TITLE I OF THE SARBANES-*  
8 *OXLEY ACT OF 2002.—Section 110 of the Sarbanes-Oxley*  
9 *Act of 2002 (15 U.S.C. 7220) is amended—*

10 *(1) in paragraph (3), by inserting “, except that*  
11 *the term does not include a non-custody broker or*  
12 *dealer that is privately held and in good standing”*  
13 *after “registered public accounting firm”;*

14 *(2) in paragraph (4), by inserting “, except that*  
15 *the term does not include a non-custody broker or*  
16 *dealer that is privately held and in good standing”*  
17 *after “registered public accounting firm”;*

18 *(3) by redesignating paragraphs (5) and (6) as*  
19 *paragraphs (8) and (9), respectively; and*

20 *(4) by inserting after paragraph (4) the fol-*  
21 *lowing:*

22 *“(5) IN GOOD STANDING.—The term ‘in good*  
23 *standing’ means, with respect to a broker or dealer*  
24 *(as those terms are defined in section 3(a) of the Se-*  
25 *curities Exchange Act of 1934 (15 U.S.C. 78c(a))),*

1       *that, as of the last day of the most recently completed*  
2       *fiscal year of the broker or dealer, as applicable, the*  
3       *broker or dealer—*

4               “(A) *was registered with the Commission;*

5               “(B) *was a member of a registered securities*  
6       *association (as defined under section 15A of the*  
7       *Securities Exchange Act of 1934 (15 U.S.C. 78o-*  
8       *3));*

9               “(C) *was compliant with the minimum dol-*  
10       *lar net capital requirements under section*  
11       *240.15c3–1 of title 17, Code of Federal Regula-*  
12       *tions, or any successor regulation;*

13               “(D) *had not, during the 10-year period*  
14       *preceding that date, been convicted of a felony*  
15       *under Federal or State law;*

16               “(E) *does not have an associated person (as*  
17       *that term is defined in section 3(a) of the Securi-*  
18       *ties Exchange Act of 1934 (15 U.S.C. 78c(a))*  
19       *who, during the 10-year period preceding that*  
20       *date, was convicted of a felony under Federal or*  
21       *State laws for fraudulent conduct; and*

22               “(F) *was not, as provided by section*  
23       *3(a)(39) of the Securities Exchange Act of 1934*  
24       *(15 U.S.C. 78c(a))—*

1           “(i) expelled or suspended from mem-  
2           bership or participation in any self-regu-  
3           latory organization (as provided in section  
4           3(a)(26) of the Securities Exchange Act of  
5           1934 (15 U.S.C. 78c(a)(26))) or a registered  
6           futures association (as provided in section  
7           17 of the Commodity Exchange Act (7  
8           U.S.C. 21));

9           “(ii) subject to an order of the Com-  
10          mission, or other appropriate regulatory  
11          agency, denying, suspending, or revoking its  
12          registration as any regulated entity; or

13          “(iii) subject to an order of the Com-  
14          modity Futures Trading Commission, or  
15          other appropriate regulatory agency, deny-  
16          ing, suspending, or revoking its registration  
17          under the Commodity Exchange Act (7  
18          U.S.C. 1 et seq.) or its authority to engage  
19          in any transactions.

20          “(6) NON-CUSTODY BROKER OR DEALER.—The  
21          term ‘non-custody broker or dealer’ means a broker or  
22          dealer (as those terms are defined in section 3(a) of  
23          the Securities Exchange Act of 1934 (15 U.S.C.  
24          78c(a))), as applicable, that—

1           “(A) as of the last day of the most recently  
2 completed fiscal year of the broker or dealer had  
3 not less than 1 and not more than 150 associated  
4 persons (as that term is defined in section 3(a)  
5 of the Securities Exchange Act of 1934 (15  
6 U.S.C. 78c(a))) registered with a self-regulatory  
7 organization (as provided in section 3(a)(26) of  
8 the Securities Exchange Act (15 U.S.C.  
9 78c(a)(26))) of which the broker or dealer is a  
10 member; and

11           “(B) throughout the most recently completed  
12 fiscal year of the broker or dealer—

13           “(i) did not, as a matter of ordinary  
14 business practice in connection with the ac-  
15 tivities of the broker or dealer, receive cus-  
16 tomer checks, drafts, or other evidence of in-  
17 debtedness made payable to the broker or  
18 dealer;

19           “(ii) promptly forwarded customer se-  
20 curities and customer checks, drafts, or  
21 other evidence of indebtedness payable to a  
22 third party, including a clearing broker or  
23 dealer, in compliance with section 240.15c3-  
24 3 of title 17, Code of Federal Regulations,  
25 or any successor regulation;

1           “(iii) did not otherwise hold customer  
2 securities or cash;

3           “(iv) if required under section 3(a)(2)  
4 of the Securities Investor Protection Act of  
5 1970 (15 U.S.C. 78ccc(a)(2)), was a mem-  
6 ber of the Securities Investor Protection  
7 Corporation; and

8           “(v) either—

9           “(I) claimed exemption from sec-  
10 tion 240.15c3-3 of title 17, Code of  
11 Federal Regulations, or any successor  
12 regulation; or

13           “(II) claimed no exemption from  
14 such section 240.15c3-3, or any suc-  
15 cessor regulation, or was not otherwise  
16 subject to such, because the broker or  
17 dealer did not maintain custody over  
18 any customer securities or cash.

19           “(7) PRIVATELY HELD.—The term ‘privately  
20 held’ means, with respect to a broker or dealer (as  
21 those terms are defined in section 3(a) of the Securi-  
22 ties Exchange Act of 1934 (15 U.S.C. 78c(a))), that  
23 the broker or dealer, as applicable, is not an issuer.”.

24           (b) AMENDMENTS TO REGULATIONS.—Not later than  
25 180 days after the date of enactment of this Act, the Securi-

1 *ties and Exchange Commission shall make any necessary*  
2 *amendments to regulations of the Commission that are in*  
3 *effect as of the date of enactment of this Act in order to—*

4           (1) *carry out this Act and the amendments made*  
5 *by this Act; and*

6           (2) *to exclude the auditors of non-custody brokers*  
7 *and dealers that are privately held and in good*  
8 *standing (as such terms are defined under section 110*  
9 *of the Sarbanes-Oxley Act of 2002) from the audit re-*  
10 *quirements of the Public Company Accounting Over-*  
11 *sight Board.*

12       (c) *EFFECTIVE DATE.—This Act, and the amendments*  
13 *made by this Act, shall take effect on the date that is 180*  
14 *days after the date of enactment of this Act.*

Amend the title so as to read: “A bill to amend the Sarbanes-Oxley Act of 2002 to exclude the audits of privately held, non-custody brokers and dealers that are in good standing from certain requirements under title I of that Act, and for other purposes.”.





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