

SUPPORTING AMERICA'S INNOVATORS ACT OF 2017

MARCH 29, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 1219]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1219) to amend the Investment Company Act of 1940 to expand the investor limitation for qualifying venture capital funds under an exemption from the definition of an investment company, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Introduced by Representative McHenry on February 27, 2017, H.R. 1219, the “Supporting America’s Innovators Act of 2017,” increases the limit on the number of individuals who can invest in certain venture capital funds before those funds must register as “investment companies” with the Securities and Exchange Commission (SEC) under the Investment Company Act of 1940 (Investment Company Act). Section 3(c)(1) of the Investment Company Act sets forth exemptions from the definition of “investment company.” Currently, the Investment Company Act limits the number of investors in a fund to 100 for the fund to be exempt from SEC registration.

H.R. 1219 amends this cap to allow 250 investors in a “qualified venture capital fund” to be exempt from SEC registration. H.R. 1219 generally defines a “qualifying venture capital fund” to be any venture capital fund that does not purchase more than \$10,000,000 in invested capital of any one issuer, adjusted for inflation. Thus, for example, H.R. 1219 would permit angel funds—which run syndicates that allow accredited investors to participate in investing in startups—to obtain funds from a greater number of investors. As a result, investors will benefit from new investment opportunities

that otherwise they would not have access to, while providing critical funding to startups to enable them to grow and succeed.

BACKGROUND AND NEED FOR LEGISLATION

Access to financial capital—whether via equity or debt—is vital for entrepreneurs seeking to start, operate and expand innovative businesses. At the same time, gaining access to this investment capital is an enduring challenge for many small businesses. The financial crisis made access to capital increasingly more difficult from historically typical resources such as institutional banks and various capital market players. While conditions have improved somewhat in recent years, many entrepreneurs continue to struggle with accessing the capital they need to grow and sustain their businesses.

Prior to the Jumpstart Our Business Startups (JOBS) Act, a privately-held company would have to register with the SEC once the company had 500 investors. To provide privately-held companies with additional regulatory flexibility, Title V of the JOBS Act raised the cap for privately-held companies to 2,000 investors. However, the JOBS Act did not amend the Investment Company Act’s 100-investor threshold for investors acting as a coordinated group, where it has been since 1940. As noted by Kevin Laws of AngelList in his written testimony before the Subcommittee on Capital Markets and Government Sponsored Enterprises, “with on-line fundraising and general solicitation becoming more common because of the JOBS Act, companies are bumping up against the limit more frequently. The [current] limit . . . now acts as a brake on the amount of money the company wanted to raise, leaving tens of millions of dollars on the table that did not go into startups.”

H.R. 1219 is an important complement to Title V of the JOBS Act. The JOBS Act permitted up to 2,000 individuals to invest in private companies without triggering SEC registration. Building on this, H.R. 1219 allows qualified venture capital funds to obtain the backing of up to 250 individuals without having to register under the Investment Company Act. This helps to further promote capital formation at the earliest stages of a business’s life-cycle.

HEARINGS

The Committee on Financial Services’ Subcommittee on Capital Markets and Government Sponsored Enterprises held a hearing examining matters relating to H.R. 1219 on April 14, 2016.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on March 9, 2017. The Committee ordered H.R. 1219 to be reported favorably to the House without amendment by a recorded vote of 54 yeas to 2 nays (recorded vote no. FC-31), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole record vote

in Committee was a motion by Chairman Hensarling to report the bill favorably to the House without amendment. That motion was agreed to by a recorded vote of 54 yeas to 2 nays (Record vote no. FC-31), a quorum being present.

Record vote no. FC-31

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)	X		
Mr. McHenry	X			Mrs. Carolyn B. Maloney (NY) ..	X		
Mr. King	X			Ms. Velázquez	X		
Mr. Royce (CA)	X			Mr. Sherman	X		
Mr. Lucas	X			Mr. Meeks	X		
Mr. Pearce	X			Mr. Capuano		X	
Mr. Posey	X			Mr. Clay	X		
Mr. Luetkemeyer	X			Mr. Lynch		X	
Mr. Huizenga	X			Mr. David Scott (GA)	X		
Mr. Duffy	X			Mr. Al Green (TX)	X		
Mr. Stivers	X			Mr. Cleaver	X		
Mr. Hultgren	X			Ms. Moore	X		
Mr. Ross	X			Mr. Ellison	X		
Mr. Pittenger	X			Mr. Perlmutter	X		
Mrs. Wagner	X			Mr. Himes	X		
Mr. Barr	X			Mr. Foster	X		
Mr. Rothfus	X			Mr. Kildee	X		
Mr. Messer	X			Mr. Delaney	X		
Mr. Tipton	X			Ms. Sinema			
Mr. Williams	X			Mrs. Beatty	X		
Mr. Poliquin	X			Mr. Heck	X		
Mrs. Love	X			Mr. Vargas	X		
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)			
Mr. Zeldin	X			Mr. Crist			
Mr. Trott	X			Mr. Kihuen	X		
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)							
Ms. Tenney	X						
Mr. Hollingsworth	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 1219 will provide for greater investment opportunities for investors and promote capital formation by amending the Investment Company Act of 1940 to raise the exemption from registration from 100 to 250 persons for a qualifying venture capital fund.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 22, 2017.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1219, the Supporting America's Innovators Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

MARK P. HADLEY
(For Keith Hall, *Director*).

Enclosure.

H.R. 1219—Supporting America’s Innovators Act of 2017

Under current law, the Securities and Exchange Commission (SEC) exempts certain issuers of securities from the requirement to register as an investment company and some regulations that apply to investment companies. H.R. 1219 would expand that exemption to include a broader set of issuers.

Based on an analysis of information from the SEC about the current scope of the exemption, CBO estimates that implementing H.R. 1219 would have no significant effect on the agency’s costs or operations because only a relatively small number of companies would qualify for the broader exemption. Moreover, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, CBO estimates that the net effect on discretionary spending would be negligible, assuming appropriation actions consistent with that authority.

Enacting H.R. 1219 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 1219 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1219 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On March 22, 2017, CBO transmitted a cost estimate for S. 444, the Supporting America’s Innovators Act of 2017, as reported by the Senate Committee on Banking, Housing, and Urban Affairs on March 13, 2017. The two bills are similar and CBO’s estimate of their budgetary effects is the same.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 1219 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(c)(5) of rule XIII, the Committee states that no provision of H.R. 1219 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee states that H.R. 1219 contains no directed rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1: Short title

This section cites H.R. 1219 as the “Supporting America’s Innovators Act of 2017.”

Section 2: Investor limitation for qualifying venture capital funds

This section amends Section 3(c)(1) of the Investment Company Act of 1940 by increasing the exemption for a company to register as an investment fund from 100 to 250 investors. The section also defines the term “qualifying venture capital fund” to mean any venture capital fund that does not purchase more than \$10,000,000 in invested capital of any one issuer, adjusted for inflation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

INVESTMENT COMPANY ACT OF 1940

TITLE I—INVESTMENT COMPANIES

* * * * *

DEFINITION OF INVESTMENT COMPANY

SEC. 3. (a)(1) When used in this title, “investment company” means any issuer which—

(A) is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities;

(B) is engaged or proposes to engage in the business of issuing face-amount certificates of the installment type, or has been engaged in such business and has any such certificate outstanding; or

(C) is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having

a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

(2) As used in this section, "investment securities" includes all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exception from the definition of investment company in paragraph (1) or (7) of subsection (c).

(b) Notwithstanding paragraph (1)(C) of subsection (a), none of the following persons is an investment company within the meaning of this title:

(1) Any issuer primarily engaged, directly or through a wholly-owned subsidiary or subsidiaries, in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities.

(2) Any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses. The filing of an application under this paragraph in good faith by an issuer other than a registered investment company shall exempt the applicant for a period of sixty days from all provisions of this title applicable to investment companies as such. For cause shown, the Commission by order may extend such period of exemption for an additional period or periods. Whenever the Commission, upon its own motion or upon application, finds that the circumstances which gave rise to the issuance of an order granting an application under this paragraph no longer exist, the Commission shall by order revoke such order.

(3) Any issuer all the outstanding securities of which (other than short-term paper and directors' qualifying shares) are directly or indirectly owned by a company excepted from the definition of investment company by paragraph (1) or (2) of this subsection.

(c) Notwithstanding subsection (a), none of the following persons is an investment company within the meaning of this title:

(1) Any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons (*or, in the case of a qualifying venture capital fund, 250 persons*) and which is not making and does not presently propose to make a public offering of its securities. Such issuer shall be deemed to be an investment company for purposes of the limitations set forth in subparagraphs (A)(i) and (B)(i) of section 12(d)(1) governing the purchase or other acquisition by such issuer of any security issued by any registered investment company and the sale of any security issued by any registered open-end investment company to any such issuer. For purposes of this paragraph:

(A) Beneficial ownership by a company shall be deemed to be beneficial ownership by one person, except that, if

the company owns 10 per centum or more of the outstanding voting securities of the issuer, and is or, but for the exception provided for in this paragraph or paragraph (7), would be an investment company, the beneficial ownership shall be deemed to be that of the holders of such company's outstanding securities (other than short-term paper).

(B) Beneficial ownership by any person who acquires securities or interests in securities of an issuer described in the first sentence of this paragraph shall be deemed to be beneficial ownership by the person from whom such transfer was made, pursuant to such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title, where the transfer was caused by legal separation, divorce, death, or other involuntary event.

(C)(i) *The term "qualifying venture capital fund" means a venture capital fund that has not more than \$10,000,000 in aggregate capital contributions and uncalled committed capital, with such dollar amount to be indexed for inflation once every 5 years by the Commission, beginning from a measurement made by the Commission on a date selected by the Commission, rounded to the nearest \$1,000,000.*

(ii) *The term "venture capital fund" has the meaning given the term in section 275.203(l)-1 of title 17, Code of Federal Regulations, or any successor regulation.*

(2)(A) Any person primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, acting as broker, and acting as market intermediary, or any one or more of such activities, whose gross income normally is derived principally from such business and related activities.

(B) For purposes of this paragraph—

(i) the term "market intermediary" means any person that regularly holds itself out as being willing contemporaneously to engage in, and that is regularly engaged in, the business of entering into transactions on both sides of the market for a financial contract or one or more such financial contracts; and

(ii) the term "financial contract" means any arrangement that—

(I) takes the form of an individually negotiated contract, agreement, or option to buy, sell, lend, swap, or repurchase, or other similar individually negotiated transaction commonly entered into by participants in the financial markets;

(II) is in respect of securities, commodities, currencies, interest or other rates, other measures of value, or any other financial or economic interest similar in purpose or function to any of the foregoing; and

(III) is entered into in response to a request from a counter party for a quotation, or is otherwise entered

into and structured to accommodate the objectives of the counter party to such arrangement.

(3) Any bank or insurance company; any savings and loan association, building and loan association, cooperative bank, homestead association, or similar institution, or any receiver, conservator, liquidator, liquidating agent, or similar official or person thereof or therefor; or any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian, if—

(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

(i) advertised; or

(ii) offered for sale to the general public; and

(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law.

(4) Any person substantially all of whose business is confined to making small loans, industrial banking, or similar businesses.

(5) Any person who is not engaged in the business of issuing redeemable securities, face-amount certificates of the installment type or periodic payment plan certificates, and who is primarily engaged in one or more of the following businesses: (A) Purchasing or otherwise acquiring notes, drafts, acceptances, open accounts receivable, and other obligations representing part or all of the sales price of merchandise, insurance, and services; (B) making loans to manufacturers, wholesalers, and retailers of, and to prospective purchasers of, specified merchandise, insurance, and services; and (C) purchasing or otherwise acquiring mortgages and other liens on and interests in real estate.

(6) Any company primarily engaged, directly or through majority-owned subsidiaries, in one or more of the businesses described in paragraphs (3), (4), and (5), or in one or more of such businesses (from which not less than 25 percent of such company's gross income during its last fiscal year was derived) together with an additional business or businesses other than investing, reinvesting, owning, holding, or trading in securities.

(7)(A) Any issuer, the outstanding securities of which are owned exclusively by persons who, at the time of acquisition of such securities, are qualified purchasers, and which is not making and does not at that time propose to make a public offering of such securities. Securities that are owned by persons who received the securities from a qualified purchaser as a gift or bequest, or in a case in which the transfer was caused by legal separation, divorce, death, or other involuntary event, shall be deemed to be owned by a qualified purchaser, subject to such rules, regulations, and orders as the Commission may

prescribe as necessary or appropriate in the public interest or for the protection of investors.

(B) Notwithstanding subparagraph (A), an issuer is within the exception provided by this paragraph if—

(i) in addition to qualified purchasers, outstanding securities of that issuer are beneficially owned by not more than 100 persons who are not qualified purchasers, if—

(I) such persons acquired any portion of the securities of such issuer on or before September 1, 1996; and

(II) at the time at which such persons initially acquired the securities of such issuer, the issuer was excepted by paragraph (1); and

(ii) prior to availing itself of the exception provided by this paragraph—

(I) such issuer has disclosed to each beneficial owner, as determined under paragraph (1), that future investors will be limited to qualified purchasers, and that ownership in such issuer is no longer limited to not more than 100 persons; and

(II) concurrently with or after such disclosure, such issuer has provided each beneficial owner, as determined under paragraph (1), with a reasonable opportunity to redeem any part or all of their interests in the issuer, notwithstanding any agreement to the contrary between the issuer and such persons, for that person's proportionate share of the issuer's net assets.

(C) Each person that elects to redeem under subparagraph (B)(ii)(II) shall receive an amount in cash equal to that person's proportionate share of the issuer's net assets, unless the issuer elects to provide such person with the option of receiving, and such person agrees to receive, all or a portion of such person's share in assets of the issuer. If the issuer elects to provide such persons with such an opportunity, disclosure concerning such opportunity shall be made in the disclosure required by subparagraph (B)(ii)(I).

(D) An issuer that is excepted under this paragraph shall nonetheless be deemed to be an investment company for purposes of the limitations set forth in subparagraphs (A)(i) and (B)(i) of section 12(d)(1) relating to the purchase or other acquisition by such issuer of any security issued by any registered investment company and the sale of any security issued by any registered open-end investment company to any such issuer.

(E) For purposes of determining compliance with this paragraph and paragraph (1), an issuer that is otherwise excepted under this paragraph and an issuer that is otherwise excepted under paragraph (1) shall not be treated by the Commission as being a single issuer for purposes of determining whether the outstanding securities of the issuer excepted under paragraph (1) are beneficially owned by not more than 100 persons or whether the outstanding securities of the issuer excepted under this paragraph are owned by persons that are not qualified purchasers. Nothing in this subparagraph shall be construed to establish that a person is a bona fide qualified purchaser for purposes of this paragraph or a bona fide beneficial owner for purposes of paragraph (1).

(9) Any person substantially all of whose business consists of owning or holding oil, gas, or other mineral royalties or leases, or fractional interests therein, or certificates of interest or participation in or investment contracts relative to such royalties, leases, or fractional interests.

(10)(A) Any company organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes—

(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

(ii) which is or maintains a fund described in subparagraph (B).

(B) For the purposes of subparagraph (A)(ii), a fund is described in this subparagraph if such fund is a pooled income fund, collective trust fund, collective investment fund, or similar fund maintained by a charitable organization exclusively for the collective investment and reinvestment of one or more of the following:

(i) assets of the general endowment fund or other funds of one or more charitable organizations;

(ii) assets of a pooled income fund;

(iii) assets contributed to a charitable organization in exchange for the issuance of charitable gift annuities;

(iv) assets of a charitable remainder trust or of any other trust, the remainder interests of which are irrevocably dedicated to any charitable organization;

(v) assets of a charitable lead trust;

(vi) assets of a trust, the remainder interests of which are revocably dedicated to or for the benefit of 1 or more charitable organizations, if the ability to revoke the dedication is limited to circumstances involving—

(I) an adverse change in the financial circumstances of a settlor or an income beneficiary of the trust;

(II) a change in the identity of the charitable organization or organizations having the remainder interest, provided that the new beneficiary is also a charitable organization; or

(III) both the changes described in subclauses (I) and (II);

(vii) assets of a trust not described in clauses (i) through (v), the remainder interests of which are revocably dedicated to a charitable organization, subject to subparagraph (C); or

(viii) such assets as the Commission may prescribe by rule, regulation, or order in accordance with section 6(c).

(C) A fund that contains assets described in clause (vii) of subparagraph (B) shall be excluded from the definition of an investment company for a period of 3 years after the date of enactment of this subparagraph, but only if—

(i) such assets were contributed before the date which is 60 days after the date of enactment of this subparagraph; and

(ii) such assets are commingled in the fund with assets described in one or more of clauses (i) through (vi) and (viii) of subparagraph (B).

(D) For purposes of this paragraph—

(i) a trust or fund is “maintained” by a charitable organization if the organization serves as a trustee or administrator of the trust or fund or has the power to remove the trustees or administrators of the trust or fund and to designate new trustees or administrators;

(ii) the term “pooled income fund” has the same meaning as in section 642(c)(5) of the Internal Revenue Code of 1986;

(iii) the term “charitable organization” means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of the Internal Revenue Code of 1986;

(iv) the term “charitable lead trust” means a trust described in section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B) of the Internal Revenue Code of 1986;

(v) the term “charitable remainder trust” means a charitable remainder annuity trust or a charitable remainder unitrust, as those terms are defined in section 664(d) of the Internal Revenue Code of 1986; and

(vi) the term “charitable gift annuity” means an annuity issued by a charitable organization that is described in section 501(m)(5) of the Internal Revenue Code of 1986.

(11) Any employee’s stock bonus, pension, or profit-sharing trust which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1986; or any governmental plan described in section 3(a)(2)(C) of the Securities Act of 1933; or any collective trust fund maintained by a bank consisting solely of assets of one or more of such trusts, government plans, or church plans, companies or accounts that are excluded from the definition of an investment company under paragraph (14) of this subsection; or any separate account the assets of which are derived solely from (A) contributions under pension or profit-sharing plans which meet the requirements of section 401 of the Internal Revenue Code of 1986 or the requirements for deduction of the employer’s contribution under section 404(a)(2) of such Code, (B) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of section 5 of the Securities Act of 1933 by section 3(a)(2)(C) of such Act, and (C) advances made by an insurance company in connection with the operation of such separate account.

(12) Any voting trust the assets of which consist exclusively of securities of a single issuer which is not an investment company.

(13) Any security holders’ protective committee or similar issuer having outstanding and issuing no securities other than certificates of deposit and short-term paper.

(14) Any church plan described in section 414(e) of the Internal Revenue Code of 1986, if, under any such plan, no part of the assets may be used for, or diverted to, purposes other than the exclusive benefit of plan participants or beneficiaries, or any company or account that is—

(A) established by a person that is eligible to establish and maintain such a plan under section 414(e) of the Internal Revenue Code of 1986; and

(B) substantially all of the activities of which consist of—

(i) managing or holding assets contributed to such church plans or other assets which are permitted to be commingled with the assets of church plans under the Internal Revenue Code of 1986; or

(ii) administering or providing benefits pursuant to church plans.

* * * * *

