

116TH CONGRESS
2D SESSION

H. R. 8786

To amend the Investment Company Act of 1940 to prohibit limitations on closed-end companies investing in private funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2020

Mr. GONZALEZ of Ohio introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Investment Company Act of 1940 to prohibit limitations on closed-end companies investing in private funds, 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 “Increasing Investor
5 Opportunities Act”.

6 **SEC. 2. CLOSED-END COMPANY AUTHORITY TO INVEST IN**
7 **PRIVATE FUNDS.**

8 (a) IN GENERAL.—Section 5 of the Investment Com-
9 pany Act of 1940 (15 U.S.C. 80a–5) is amended by add-
10 ing at the end the following:

1 “(d) CLOSED-END COMPANY AUTHORITY TO INVEST
2 IN PRIVATE FUNDS.—

3 “(1) IN GENERAL.—The Commission may not
4 limit a closed-end company from investing any or all
5 of the company’s assets in private funds solely or
6 primarily because of the private funds’ status as pri-
7 vate funds.

8 “(2) APPLICATION.—Notwithstanding section
9 6(f), this subsection shall also apply to a closed-end
10 company that elects to be treated as a business de-
11 velopment company.”.

12 (b) DEFINITION OF PRIVATE FUND.—

13 (1) INVESTMENT COMPANY ACT OF 1940.—Sec-
14 tion 2(a) of the Investment Company Act of 1940
15 (15 U.S.C. 80a–2(a)) is amended by adding at the
16 end the following:

17 “(55) The term ‘private fund’ means an issuer
18 that would be an investment company but for para-
19 graph (1) or (7) of section 3(c).”.

20 (2) INVESTMENT ADVISERS ACT OF 1940.—The
21 first paragraph (29) (relating to “private fund”) of
22 section 202(a) of the Investment Advisers Act of
23 1940 (15 U.S.C. 80b–2(a)) is amended to read as
24 follows:

1 “(29) The term ‘private fund’ has the meaning
2 given that term under section 2(a) of the Investment
3 Company Act of 1940.”.

4 (c) TREATMENT BY NATIONAL SECURITIES EX-
5 CHANGES.—Section 6(b) of the Securities Exchange Act
6 of 1934 (15 U.S.C. 78f(b)) is amended by adding at the
7 end the following:

8 “(11)(A) The rules of the exchange do not pro-
9 hibit the listing or trading of securities of a closed-
10 end company solely or primarily by reason of the
11 amount of the company’s investment of assets in pri-
12 vate funds.

13 “(B) In this paragraph—

14 “(i) the term ‘closed-end company’ has the
15 meaning given that term under section 5(a) of
16 the Investment Company Act of 1940, and in-
17 cludes a closed-end company that elects to be
18 treated as a business development company
19 under section 6(f) of such Act; and

20 “(ii) the term ‘private fund’ has the mean-
21 ing given that term under section 2(a) of the
22 Investment Company Act of 1940.”.

23 (d) INVESTMENT LIMITATION.—Section 3(c) of the
24 Investment Company Act of 1940 (15 U.S.C. 80a–3(c))
25 is amended—

1 (1) in paragraph (1), by striking “subpara-
2 graphs (A)(i) and (B)(i)” and inserting “subpara-
3 graphs (A)(i), (B)(i), and (C)”;

4 (2) in paragraph (7)(D), by striking “subpara-
5 graphs (A)(i) and (B)(i)” and inserting “subpara-
6 graphs (A)(i), (B)(i), and (C)”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect after the end of the 2-year
9 period beginning on the date of enactment of this Act, or
10 such earlier date as the Securities and Exchange Commis-
11 sion may determine is necessary or appropriate in the pub-
12 lic interest or for the protection of investors, upon notifica-
13 tion of the Congress and the public.

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