H. R. 2799

[Report No. 118–143, Part I]

To make reforms to the capital markets of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2023

Mr. MCHENRY introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 17, 2023

Reported from the Committee on Financial Services with an amendment

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

JULY 17, 2023

Committee on Education and the Workforce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 24, 2023]
A BILL

To make reforms to the capital markets of the United States,
and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Ex-

panding Access to Capital Act of 2023”.

(b) TABLE OF CONTENTS.—The table of contents for

this Act is as follows:

Sec. 1. Short title; table of contents.

DIVISION A—STRENGTHENING PUBLIC MARKETS

TITLE I—REMOVE ABERRATIONS IN THE MARKET CAP TEST FOR
TARGET COMPANY FINANCIAL STATEMENTS

Sec. 1101. Avoiding aberrational results in requirements for acquisition and dis-
position financial statements.

TITLE II—HELPING STARTUPS CONTINUE TO GROW

Sec. 1201. Short title.
Sec. 1202. Emerging growth company criteria.

TITLE III—SEC AND PCAOB AUDITOR REQUIREMENTS FOR NEWLY
PUBLIC COMPANIES

Sec. 1301. Auditor independence for certain past audits occurring before an
issuer is a public company.

TITLE IV—EXPAND THE PROTECTION FOR RESEARCH REPORTS TO
COVER ALL SECURITIES OF ALL ISSUERS

Sec. 1401. Provision of research.

TITLE V—EXCLUDE QIBS AND IAAS FROM THE RECORD HOLDER
COUNT FOR MANDATORY REGISTRATION

Sec. 1501. Exclusions from mandatory registration threshold.

TITLE VI—EXPAND WKSI ELIGIBILITY

Sec. 1601. Definition of well-known seasoned issuer.

TITLE VII—SMALLER REPORTING COMPANY, ACCELERATED FILER,
AND LARGE ACCELERATED FILER_THRESHOLDS

Sec. 1701. Smaller reporting company, accelerated filer, and large accelerated
filer thresholds.
DIVISION B—HELPING SMALL BUSINESSES AND ENTREPRENEURS

TITLE I—UNLOCKING CAPITAL FOR SMALL BUSINESSES

Sec. 2101. Short title.
Sec. 2102. Safe harbors for private placement brokers and finders.
Sec. 2103. Limitations on State law.

TITLE II—SMALL BUSINESS INVESTOR CAPITAL ACCESS

Sec. 2201. Short title.
Sec. 2202. Inflation adjustment for the exemption threshold for certain investment advisers of private funds.

TITLE III—IMPROVING CAPITAL ALLOCATION FOR NEWCOMERS

Sec. 2301. Short title.
Sec. 2302. Qualifying venture capital funds.

TITLE IV—SMALL ENTREPRENEURS’ EMPOWERMENT AND DEVELOPMENT

Sec. 2401. Short title.
Sec. 2402. Micro-offering exemption.

TITLE V—REGULATION A+ IMPROVEMENT

Sec. 2501. Short title.
Sec. 2502. JOBS Act-related exemption.

TITLE VI—DEVELOPING AND EMPOWERING OUR ASPIRING LEADERS

Sec. 2601. Short title.
Sec. 2602. Definitions.
Sec. 2603. Reports.

TITLE VII—IMPROVING CROWDFUNDING OPPORTUNITIES

Sec. 2701. Short title.
Sec. 2702. Crowdfunding revisions.

TITLE VIII—RESTORING THE SECONDARY TRADING MARKET

Sec. 2801. Short title.
Sec. 2802. Exemption from State regulation.

DIVISION C—INCREASING ACCESS TO PRIVATE MARKETS

TITLE I—GIG WORKER EQUITY COMPENSATION

Sec. 3101. Short title.
Sec. 3102. Extension of Rule 701.
Sec. 3103. Preemption of certain provisions of State law.
Sec. 3104. GAO study.

TITLE II—INVESTMENT OPPORTUNITY EXPANSION

Sec. 3201. Short title.
Sec. 3202. Investment thresholds to qualify as an accredited investor.
DIVISION A—STRENGTHENING PUBLIC MARKETS

TITLE I—REMOVE ABERRATIONS IN THE MARKET CAP TEST FOR TARGET COMPANY FINANCIAL STATEMENTS

SEC. 1101. AVOIDING ABERRATIONAL RESULTS IN REQUIREMENTS FOR ACQUISITION AND DISPOSITION FINANCIAL STATEMENTS.

The Securities and Exchange Commission shall revise section 210.1–02(w)(1)(i)(A) of title 17, Code of Federal Regulations, to permit a registrant, in determining the significance of an acquisition or disposition described in such section 210.1–02(w)(1)(i)(A), to calculate the registrant’s aggregate worldwide market value based on the applicable trading value, conversion value, or exchange value of all of the registrant’s outstanding classes of stock (including preferred stock and non-traded common shares that are convertible into or exchangeable for traded common shares) and not just the voting and non-voting common equity of the registrant.
TITLE II—HELPING STARTUPS CONTINUE TO GROW

SEC. 1201. SHORT TITLE.

This title may be cited as the “Helping Startups Continue To Grow Act”.

SEC. 1202. EMERGING GROWTH COMPANY CRITERIA.

(a) Securities Act of 1933.—Section 2(a)(19) of the Securities Act of 1933 (15 U.S.C. 77b(a)(19)) is amended—

(1) by striking “$1,000,000,000” each place such term appears and inserting “$1,500,000,000”;

(2) in subparagraph (B)—

(A) by striking “fifth” and inserting “7-year”; and

(B) by adding “or” at the end;

(3) in subparagraph (C), by striking “; or” and inserting a period; and

(4) by striking subparagraph (D).

(b) Securities Exchange Act of 1934.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended, in the first paragraph (80) (related to emerging growth companies)—

(1) by striking “$1,000,000,000” each place such term appears and inserting “$1,500,000,000”;

(2) in subparagraph (B)—
(A) by striking “fifth” and inserting “7-year”; and

(B) by adding “or” at the end;

(3) in subparagraph (C), by striking “; or” and inserting a period; and

(4) by striking subparagraph (D).

TITLE III—SEC AND PCAOB AUDITOR REQUIREMENTS FOR NEWLY PUBLIC COMPANIES

SEC. 1301. AUDITOR INDEPENDENCE FOR CERTAIN PAST AUDITS OCCURRING BEFORE AN ISSUER IS A PUBLIC COMPANY.

(a) Auditor Independence Standards of the Public Company Accounting Oversight Board.—Section 103 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7213) is amended by adding at the end the following:

“(e) Auditor Independence for Certain Past Audits Occurring Before an Issuer Is a Public Company.—With respect to an issuer that is a public company or an issuer that has filed a registration statement to become a public company, the auditor independence rules established by the Board with respect to audits occurring before the last fiscal year of the issuer completed before the issuer filed a registration statement to become a public company shall treat an auditor as independent if—
“(1) the auditor is independent under standards established by the American Institute of Certified Public Accountants applicable to certified public accountants in United States; or

“(2) with respect to a foreign issuer, the auditor is independent under comparable standards applicable to certified public accountants in the issuer’s home country.”.

(b) AUDITOR INDEPENDENCE STANDARDS OF THE SECURITIES AND EXCHANGE COMMISSION.—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1) is amended by adding at the end the following:

“(n) AUDITOR INDEPENDENCE FOR CERTAIN PAST AUDITS OCCURRING BEFORE AN ISSUER IS A PUBLIC COMPANY.—With respect to an issuer that is a public company or an issuer that has filed a registration statement to become a public company, the auditor independence rules established by the Commission under the securities laws with respect to audits occurring before the last fiscal year of the issuer completed before the issuer filed a registration statement to become a public company shall treat an auditor as independent if—

“(1) the auditor is independent under standards established by the American Institute of Certified
Public Accountants applicable to certified public accountants in United States; or

“(2) with respect to a foreign issuer, the auditor is independent under comparable standards applicable to certified public accountants in the issuer’s home country.”.

TITLE IV—EXPAND THE PROTECTION FOR RESEARCH REPORTS TO COVER ALL SECURITIES OF ALL ISSUERS

SEC. 1401. PROVISION OF RESEARCH.

Section 2(a)(3) of the Securities Act of 1933 (15 U.S.C. 77b(a)(3)) is amended—

(a) by striking “an emerging growth company” and inserting “an issuer”;

(b) by striking “the common equity” and inserting “any”; and

(c) by striking “such emerging growth company” and inserting “such issuer”.

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TITLE V—EXCLUDE QIBS AND IAAS FROM THE RECORD HOLDER COUNT FOR MANDATORY REGISTRATION

SEC. 1501. EXCLUSIONS FROM MANDATORY REGISTRATION THRESHOLD.

(a) In General.—Section 12(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(1)) is amended—

(1) in subparagraph (A)(i), by inserting after “persons” the following: “(that are not a qualified institutional buyer or an institutional accredited investor)”; and

(2) in subparagraph (B), by inserting after “persons” the following: “(that are not a qualified institutional buyer or an institutional accredited investor)”.

(b) Nonapplicability of General Exemptive Authority.—Section 36 of the Securities Exchange Act of 1934 (15 U.S.C. 78mm) shall not apply to the matter inserted by the amendments made by subsection (a).
TITLE VI—EXPAND WKSI
ELIGIBILITY

SEC. 1601. DEFINITION OF WELL-KNOWN SEASONED ISSUER.

For purposes of the Federal securities laws, and regulations issued thereunder, an issuer shall be a “well-known seasoned issuer” if—

(1) the aggregate market value of the voting and non-voting common equity held by non-affiliates of the issuer is $250,000,000 or more (as determined under Form S–3 general instruction I.B.1. as in effect on the date of enactment of this Act); and

(2) the issuer otherwise satisfies the requirements of the definition of “well-known seasoned issuer” contained in section 230.405 of title 17, Code of Federal Regulations without reference to any requirement in such definition relating to minimum worldwide market value of outstanding voting and non-voting common equity held by non-affiliates.
(a) Smaller Reporting Companies.—

(1) In General.—The Securities and Exchange Commission shall revise the definition of a “smaller reporting company” under section 229.10(f)(1) of title 17, Code of Federal Regulations—

(A) in paragraph (i), by adjusting the public float threshold from $250,000,000 to $500,000,000; and

(B) in paragraph (ii)—

(i) by adjusting the annual revenue threshold from $100,000,000 to $250,000,000; and

(ii) in paragraph (B), by adjusting the public float threshold from $700,000,000 to $900,000,000.

(2) Use of Three-Year Rolling Average Annual Revenues.—The Securities and Exchange Commission shall revise paragraphs (1)(ii) and
(2)(iii)(B) under the definition of “smaller reporting company” under section 229.10(f)(1) of title 17, Code of Federal Regulations, by substituting “three-year rolling average annual revenues” for “annual revenues”.

(3) CONFORMING CHANGES.—The Securities and Exchange Commission shall revise the definition of a “smaller reporting company” under sections 230.405 and 240.12b–2 of title 17, Code of Federal Regulations, and any other rule of the Commission in the same manner as such definition is revised under paragraphs (1) and (2).

(b) ACCELERATED FILERS AND LARGE ACCELERATED FILERS.—

(1) LARGE ACCELERATED FILER.—The Securities and Exchange Commission shall revise the definition of a “large accelerated filer” under section 240.12b–2(2) of title 17, Code of Federal Regulations, to increase the threshold amount (for the aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of an issuer) from $700,000,000 to $750,000,000.

(2) THRESHOLD TO EXIT ACCELERATED FILER STATUS.—The Securities and Exchange Commission shall revise section 240.12b–2(3)(ii) of title 17, Code
of Federal Regulations, to increase the threshold amount (for the aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of an issuer) at which an issuer is no longer an accelerated filer from $60,000,000 to $75,000,000.

(3) Threshold to Exit Large Accelerated Filer Status.—The Securities and Exchange Commission shall revise section 240.12b–2(3)(iii) of title 17, Code of Federal Regulations, to increase the threshold amount (for the aggregate worldwide market value of the voting and non-voting common equity held by non-affiliates of an issuer) at which an issuer is no longer a large accelerated filer from $560,000,000 to $750,000,000.

(4) Exclusion of Smaller Reporting Companies.—The Securities and Exchange Commission shall revise the definitions of an “accelerated filer” and a “large accelerated filer” under paragraphs (1) and (2) of section 240.12b–2 of title 17, Code of Federal Regulations, respectively, to exclude any issuer that is a smaller reporting company, as defined under section 229.10(f)(1) of title 17, Code of Federal Regulations.
DIVISION B—HELPING SMALL BUSINESSES AND ENTREPRENEURS

TITLE I—UNLOCKING CAPITAL FOR SMALL BUSINESSES

SEC. 2101. SHORT TITLE.

This title may be cited as the “Unlocking Capital for Small Businesses Act of 2023”.

SEC. 2102. SAFE HARBORS FOR PRIVATE PLACEMENT BROKERS AND FINDERS.

(a) In General.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:

“(p) Private Placement Broker Safe Harbor.—

“(1) Registration requirements.—Not later than 180 days after the date of the enactment of this subsection the Commission shall promulgate regulations with respect to private placement brokers that are no more stringent than those imposed on funding portals.

“(2) National securities associations.—Not later than 180 days after the date of the enactment of this subsection the Commission shall promulgate regulations that require the rules of any national securities association to allow a private placement
broker to become a member of such national securities
association subject to reduced membership require-
ments consistent with this subsection.

“(3) DISCLOSURES REQUIRED.—Before effecting
a transaction, a private placement broker shall dis-
close clearly and conspicuously, in writing, to all
parties to the transaction as a result of the broker’s
activities—

“(A) that the broker is acting as a private
placement broker;

“(B) the amount of any payment or antici-
pated payment for services rendered as a private
placement broker in connection with such trans-
action;

“(C) the person to whom any such payment
is made; and

“(D) any beneficial interest in the issuer,
direct or indirect, of the private placement
broker, of a member of the immediate family of
the private placement broker, of an associated
person of the private placement broker, or of a
member of the immediate family of such associ-
ated person.
“(4) PRIVATE PLACEMENT BROKER DEFINED.—

In this subsection, the term ‘private placement broker’ means a person that—

“(A) receives transaction-based compensation—

“(i) for effecting a transaction by—

“(I) introducing an issuer of securities and a buyer of such securities in connection with the sale of a business effected as the sale of securities; or

“(II) introducing an issuer of securities and a buyer of such securities in connection with the placement of securities in transactions that are exempt from registration requirements under the Securities Act of 1933; and

“(ii) that is not with respect to—

“(I) a class of publicly traded securities; 

“(II) the securities of an investment company (as defined in section 3 of the Investment Company Act of 1940); or
“(III) a variable or equity-indexed annuity or other variable or equity-indexed life insurance product;

“(B) with respect to a transaction for which such transaction-based compensation is received—

“(i) does not handle or take possession of the funds or securities; and

“(ii) does not engage in an activity that requires registration as an investment adviser under State or Federal law; and

“(C) is not a finder as defined under subsection (q).

“(q) Finder Safe Harbor.—

“(1) Nonregistration.—A finder is exempt from the registration requirements of this Act.

“(2) National Securities Associations.—A finder shall not be required to become a member of any national securities association.

“(3) Finder Defined.—In this subsection, the term ‘finder’ means a person described in paragraphs (A) and (B) of subsection (p)(4) that—

“(A) receives transaction-based compensation of equal to or less than $500,000 in any calendar year;
“(B) receives transaction-based compensation in connection with transactions that result in a single issuer selling securities valued at equal to or less than $15,000,000 in any calendar year;

“(C) receives transaction-based compensation in connection with transactions that result in any combination of issuers selling securities valued at equal to or less than $30,000,000 in any calendar year; or

“(D) receives transaction-based compensation in connection with fewer than 16 transactions that are not part of the same offering or are otherwise unrelated in any calendar year.”.

(b) VALIDITY OF CONTRACTS WITH REGISTERED PRIVATE PLACEMENT BROKERS AND FINDERS.—Section 29 of the Securities Exchange Act of 1934 (15 U.S.C. 78cc) is amended by adding at the end the following:

“(d) Subsection (b) shall not apply to a contract made for a transaction if—

“(1) the transaction is one in which the issuer engaged the services of a broker or dealer that is not registered under this Act with respect to such transaction;
“(2) such issuer received a self-certification from such broker or dealer certifying that such broker or dealer is a registered private placement broker under section 15(p) or a finder under section 15(q); and

“(3) the issuer either did not know that such self-certification was false or did not have a reasonable basis to believe that such self-certification was false.”.

(c) Removal of Private Placement Brokers From Definitions of Broker.—

(1) Records and reports on monetary instruments transactions.—Section 5312 of title 31, United States Code, is amended in subsection (a)(2)(G) by inserting “with the exception of a private placement broker as defined in section 15(p)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(p)(4))” before the semicolon at the end.

(2) Securities exchange act of 1934.—Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended by adding at the end the following:

“(G) Private placement brokers.—A private placement broker as defined in section 15(p)(4) is not a broker for the purposes of this Act.”.
SEC. 2103. LIMITATIONS ON STATE LAW.

Section 15(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(i)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following:

“(3) PRIVATE PLACEMENT BROKERS AND FINDERS.—

“(A) IN GENERAL.—No State or political subdivision thereof may enforce any law, rule, regulation, or other administrative action that imposes greater registration, audit, financial recordkeeping, or reporting requirements on a private placement broker or finder than those that are required under subsections (p) and (q), respectively.

“(B) DEFINITION OF STATE.—For purposes of this paragraph, the term ‘State’ includes the District of Columbia and each territory of the United States.”; and

(3) in paragraph (4), as so redesignated, by striking “paragraph (3)” and inserting “paragraph (5)”.
TITLE II—SMALL BUSINESS
INVESTOR CAPITAL ACCESS

SEC. 2201. SHORT TITLE.
This title may be cited as the “Small Business Investor Capital Access Act”.

SEC. 2202. INFLATION ADJUSTMENT FOR THE EXEMPTION THRESHOLD FOR CERTAIN INVESTMENT ADVISERS OF PRIVATE FUNDS.
Section 203(m) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(m)) is amended by adding at the end the following:

“(5) Inflation Adjustment.—The Commission shall adjust the dollar amount described under paragraph (1)—

“(A) upon enactment of this paragraph, to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between the date of enactment of the Private Fund Investment Advisers Registration Act of 2010 and the date of enactment of this paragraph; and

“(B) annually thereafter, to reflect the change in the Consumer Price Index for All
Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.”.

TITLE III—IMPROVING CAPITAL ALLOCATION FOR NEWCOMERS

SEC. 2301. SHORT TITLE.

This title may be cited as the “Improving Capital Allocation for Newcomers Act of 2023”.

SEC. 2302. QUALIFYING VENTURE CAPITAL FUNDS.

Section 3(c)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking “250 persons” and inserting “600 persons”; and

(2) in subparagraph (C)(i), by striking “$10,000,000” and inserting “$150,000,000”.

TITLE IV—SMALL ENTREPRENEURS’ EMPOWERMENT AND DEVELOPMENT

SEC. 2401. SHORT TITLE.

This title may be cited as the “Small Entrepreneurs’ Empowerment and Development Act of 2023” or the “SEED Act of 2023”.

SEC. 2402. MICRO-OFFERING EXEMPTION.

(a) IN GENERAL.—Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended—
(1) in subsection (a), by adding at the end the following:

“(8) transactions meeting the requirements of subsection (f).”; and

(2) by adding at the end the following:

“(f) MICRO-OFFERINGS.—The transactions referred to in subsection (a)(8) are transactions involving the sale of securities by an issuer (including all entities controlled by or under common control with the issuer) where the aggregate amount of all securities sold by the issuer, including any amount sold in reliance on the exemption provided under subsection (a)(8), during the 12-month period preceding such transaction, does not exceed $250,000.”.

(b) DISQUALIFICATION.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule, establish disqualification provisions under which an issuer shall not be eligible to offer securities pursuant to section 4(a)(8) of the Securities Act of 1933, as added by this section.

(2) INCLUSIONS.—Disqualification provisions required by this subsection shall—

(A) be substantially similar to the provisions of section 230.506(d) of title 17, Code of
Federal Regulations (or any successor thereto); and

(B) disqualify any offering or sale of securities by a person that—

(i) is subject to a final order of a covered regulator that—

(I) bars the person from—

(aa) association with an entity regulated by the covered regulator;

(bb) engaging in the business of securities, insurance, or banking; or

(cc) engaging in savings association or credit union activities; or

(II) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct, if such final order was issued within the previous 10-year period; or

(ii) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving
the making of any false filing with the Commission.

(3) COVERED REGULATOR DEFINED.—In this subsection, the term “covered regulator” means—

(A) a State securities commission (or an agency or officer of a State performing like functions);

(B) a State authority that supervises or examines banks, savings associations, or credit unions;

(C) a State insurance commission (or an agency or officer of a State performing like functions);

(D) a Federal banking agency (as defined under section 3 of the Federal Deposit Insurance Act); and

(E) the National Credit Union Administration.

(c) EXEMPTION UNDER STATE REGULATIONS.—Section 18(b)(4) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)) is amended—

(1) in subparagraph (F), by striking “or” at the end;

(2) in subparagraph (G), by striking the period and inserting “; or”; and
(3) by adding at the end the following:

“(H) section 4(a)(8).”.

TITLE V—REGULATION A+
IMPROVEMENT

SEC. 2501. SHORT TITLE.

This title may be cited as the “Regulation A+ Improvement Act of 2023”.

SEC. 2502. JOBS ACT-RELATED EXEMPTION.

Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended—

(1) in paragraph (2)(A), by striking “$50,000,000” and inserting “$150,000,000, adjusted for inflation by the Commission every 2 years to the nearest $10,000 to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics”; and

(2) in paragraph (5)—

(A) by striking “such amount as” and inserting: “such amount, in addition to the adjustment for inflation provided for under such paragraph (2)(A), as”; and

(B) by striking “such amount, it” and inserting “such amount, in addition to the adjustment for inflation provided for under such paragraph (2)(A), it”.

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TITLE VI—DEVELOPING AND EMPOWERING OUR ASPIRING LEADERS

SEC. 2601. SHORT TITLE.

This title may be cited as the “Developing and Empowering our Aspiring Leaders Act of 2023” or the “DEAL Act of 2023”.

SEC. 2602. DEFINITIONS.

Not later than the end of the 180-day period beginning on the date of the enactment of this Act, the Securities and Exchange Commission shall, to the extent such revisions facilitate capital formation without compromising investor protection—

(1) revise the definition of a qualifying investment under paragraph (c) of section 275.203(l)–1 of title 17, Code of Federal Regulations—

(A) to include an equity security issued by a qualifying portfolio company, whether acquired directly from the company or in a secondary acquisition; and

(B) to specify that an investment in another venture capital fund is a qualifying investment under such definition; and

(2) revise paragraph (a) of such section to require, as a condition of a private fund qualifying as
a venture capital fund under such paragraph, that
the qualifying investments of the private fund are ei-
ther—

(A) predominantly qualifying investments
that were acquired directly from a qualifying
portfolio company; or

(B) predominantly qualifying investments
in another venture capital fund or other venture
capital funds.

SEC. 2603. REPORTS.

(a) GAO REPORT.—The Comptroller General of the
United States shall issue a report to Congress on the risks
and impacts of concentrated sectoral counterparty risk in
the banking sector, in light of the failure of Silicon Valley
Bank.

(b) ADVOCATE FOR SMALL BUSINESS CAPITAL FORMA-
TION REPORT.—The Advocate for Small Business Capital
Formation shall issue a report to Congress and the Securi-
ties and Exchange Commission—

(1) examining the access to banking services for
venture funds and companies funded by venture cap-
ital, in light of the failure of Silicon Valley Bank, es-
pecially those funds and companies located outside of
the established technology and venture capital hubs of
California, Massachusetts, and New York; and
• containing any policy recommendations of
  the Advocate.

**TITLE VII—IMPROVING CROWDFUNDING OPPORTUNITIES**

**SEC. 2701. SHORT TITLE.**

This title may be cited as the “Improving Crowdfunding Opportunities Act”.

**SEC. 2702. CROWDFUNDING REVISIONS.**

(a) Exemption From State Regulation.—Section 18(b)(4)(A) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(A)) is amended by striking “pursuant to section” and all that follows through the semicolon at the end and inserting the following: “pursuant to—

“(i) section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)); or

“(ii) section 4A(b) or any regulation issued under that section;”.

(b) Liability for Material Misstatements and Omissions.—Section 4A(c) of the Securities Act of 1933 (15 U.S.C. 77d–1(c)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and
(2) by inserting after paragraph (2) the following:

“(3) LIABILITY OF FUNDING PORTALS.—For the purposes of this subsection, a funding portal, as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), shall not be considered to be an issuer unless, in connection with the offer or sale of a security, the funding portal knowingly—

“(A) makes any untrue statement of a material fact or omits to state a material fact in order to make the statements made, in light of the circumstances under which they are made, not misleading; or

“(B) engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.”.

(c) APPLICABILITY OF BANK SECRECY ACT REQUIREMENTS.—

(1) SECURITIES ACT OF 1933.—Section 4A(a) of the Securities Act of 1933 (15 U.S.C. 77d–1(a)) is amended—

(A) in paragraph (11), by striking “and” at the end;
(B) in paragraph (12), by striking the period at the end and inserting “; and”;
and

(C) by adding at the end the following:

“(13) not be subject to the recordkeeping and reporting requirements relating to monetary instruments under subchapter II of chapter 53 of title 31, United States Code.”.

(2) TITLE 31, UNITED STATES CODE.—Section 5312 of title 31, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) ADDITIONAL CLARIFICATION.—The term ‘financial institution’ (as defined in subsection (a))—

“(1) includes any futures commission merchant, commodity trading advisor, or commodity pool operator registered, or required to register, under the Commodity Exchange Act (7 U.S.C. 1 et seq.); and

“(2) does not include a funding portal, as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).”.

(d) PROVISION OF IMPERSONAL INVESTMENT ADVICE AND RECOMMENDATIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) by redesignating the second paragraph (80) (relating to funding portals) as paragraph (81); and
(2) in paragraph (81)(A), as so redesignated, by inserting after “recommendations” the following:
“(other than by providing impersonal investment advice by means of written material, or an oral statement, that does not purport to meet the objectives or needs of a specific individual or account)”.

(e) Target Amounts of Certain Exempted Offerings.—The Securities and Exchange Commission shall amend paragraph (t)(1) of section 227.201 of title 17, Code of Federal Regulations so that such paragraph applies with respect to an issuer offering or selling securities in reliance on section 4(a)(6) of the Securities Act of 1933 (15 U.S.C. 77d(a)(6)) if—

(1) the offerings of such issuer, together with all other amounts sold under such section 4(a)(6) within the preceding 12-month period, have, in the aggregate, a target amount of more than $124,000 but not more than $250,000;

(2) the financial statements of such issuer that have either been reviewed or audited by a public accountant that is independent of the issuer are unavailable at the time of filing; and

(3) such issuer provides a statement that financial information certified by the principal executive officer of the issuer has been provided instead of fi-
nancial statements reviewed by a public accountant
that is independent of the issuer.

(f) **Exemption Available to Investment Companies.**—Section 4A(f) of the Securities Act of 1933 (15 U.S.C. 77d–1(f)) is amended—

(1) in paragraph (2), by inserting “or” after the semicolon;

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(g) **Non-Accredited Investor Requirements.**—

Section 4(a)(6) of the Securities Act of 1933 (15 U.S.C. 77d(a)(6)) is amended—

(1) in subparagraph (A), by striking “$1,000,000” and inserting “$10,000,000”; and

(2) in subparagraph (B), by striking “does not exceed” and all that follows through “more than $100,000” and inserting “does not exceed 10 percent of the annual income or net worth of such investor”.

(h) **Technical Correction.**—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended—

(1) by striking the term “section 4(6)” each place such term appears and inserting “section 4(a)(6)”;
(2) by striking the term “section 4(6)(B)” each place such term appears and inserting “section 4(a)(6)(B)”;
and

(3) in section 4A(f), by striking “Section 4(6)” and inserting “Section 4(a)(6)”.

**TITLE VIII—RESTORING THE SECONDARY TRADING MARKET**

**SEC. 2801. SHORT TITLE.**

This title may be cited as the “Restoring the Secondary Trading Market Act”.

**SEC. 2802. EXEMPTION FROM STATE REGULATION.**

Section 18(a) of the Securities Act of 1933 (15 U.S.C. 77r(a)) is amended—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(4) shall directly or indirectly prohibit, limit, or impose any conditions upon the off-exchange secondary trading (as such term is defined by the Commission) in securities of an issuer that makes current information publicly available, including—

“(A) the information required in the periodic and current reports described under para-
DIVISION C—INCREASING ACCESS TO PRIVATE MARKETS

TITLE I—GIG WORKER EQUITY COMPENSATION

SEC. 3101. SHORT TITLE.

This title may be cited as the “Gig Worker Equity Compensation Act”.

SEC. 3102. EXTENSION OF RULE 701.

(a) IN GENERAL.—The exemption provided under section 230.701 of title 17, Code of Federal Regulations, shall apply to individuals (other than employees) providing goods for sale, labor, or services for remuneration to either an issuer or to customers of an issuer to the same extent as such exemptions apply to employees of the issuer. For purposes of the previous sentence, the term “customers” may, at the election of an issuer, include users of the issuer’s platform.

(b) ADJUSTMENT FOR INFLATION.—The Securities and Exchange Commission shall annually adjust the dollar fig-
ure under section 230.701(e) of title 17, Code of Federal Regulations, to reflect the percentage change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(c) RULEMAKING.—The Securities and Exchange Commission—

(1) shall revise section 230.701 of title 17, Code of Federal Regulations, to reflect the requirements of this section; and

(2) may not revise such section 230.701 in any manner that would have the effect of restricting access to equity compensation for employees or individuals described under subsection (a).

SEC. 3103. PREEMPTION OF CERTAIN PROVISIONS OF STATE LAW.

Any provision of a State law with respect to wage rates or benefits that creates a presumption that an individual providing goods for sale, labor, or services for remuneration for a person is an employee of such person under such law is preempted.

SEC. 3104. GAO STUDY.

Not later than the end of the 3-year period beginning on the date of enactment of this Act, the Comptroller General of the United States shall carry out a study on the
effects of this title and submit a report on such study to the Congress.

**TITLE II—INVESTMENT OPPORTUNITY EXPANSION**

**SEC. 3201. SHORT TITLE.**

This title may be cited as the “Investment Opportunity Expansion Act”.

**SEC. 3202. INVESTMENT THRESHOLDS TO QUALIFY AS AN ACCREDITED INVESTOR.**

Section 2(a)(15) of the Securities Act of 1933 (15 U.S.C. 77b(a)(15)) is amended—

(1) by striking “(15) The term ‘accredited investor’ shall mean—” and inserting the following:

“(15) ACCREDITED INVESTOR.—

“(A) IN GENERAL.—The term ‘accredited investor’ means—”;

(2) in clause (i), by striking “or” at the end;

(3) in clause (ii), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(iii) with respect to a proposed transaction, any individual whose aggregate investment, at the completion of such transaction, in securities with respect to which
there has not been a public offering is not
more than 10 percent of the greater of—

“(I) the net assets of the individ-
ual; or

“(II) the annual income of the in-
dividual;”.

**TITLE III—RISK DISCLOSURE
AND INVESTOR ATTESTATION**

**SEC. 3301. SHORT TITLE.**

This title may be cited as the “Risk Disclosure and
Investor Attestation Act”.

**SEC. 3302. INVESTOR ATTESTATION.**

(a) **IN GENERAL.**—Section 2(a)(15) of the Securities
Act of 1933 (15 U.S.C. 77b(a)(15)), as amended by section
3202, is further amended by adding at the end the fol-
lowing:

“(iv) with respect to an issuer, any in-
dividual that has attested to the issuer that
the individual understands the risks of in-
vestment in private issuers, using such form
as the Commission shall establish, by rule,
but which form may not be longer than 2
pages in length; or”.

(b) **RULEMAKING.**—Not later than the end of the 1-
year period beginning on the date of enactment of this Act,
the Securities and Exchange Commission shall issue rules
to carry out the amendments made by subsection (a), in-
cluding establishing the form required under such amend-
ments.

TITLE IV—ACCREDITED INVESTORS INCLUDE INDIVIDUALS
RECEIVING ADVICE FROM CERTAIN PROFESSIONALS

SEC. 3401. ACCREDITED INVESTORS INCLUDE INDIVIDUALS
RECEIVING ADVICE FROM CERTAIN PROFESSIONALS.

(a) SECURITIES ACT OF 1933.—Section 2(a)(15) of the
Securities Act of 1933 (15 U.S.C. 77b(a)(15)), as amended
by sections 3202 and 3302, is further amended by adding
at the end the following:

“(v) any individual receiving individ-
ualized investment advice or individualized
investment recommendations with respect to
the applicable transaction from an indi-
vidual described under section
203.501(a)(10) of title 17, Code of Federal
Regulations.

“(B) DEFINITIONS.—In subparagraph
(A)(v):
“(i) INVESTMENT ADVICE.—The term ‘investment advice’ shall be interpreted consistently with the interpretation of the phrase ‘engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities’ under section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)).

“(ii) INVESTMENT RECOMMENDATION.—The term ‘investment recommendation’ shall be interpreted consistently with the interpretation of the term ‘recommendation’ under section 240.15l-1 of title 17, Code of Federal Regulations.”.

(b) CONFORMING CHANGES TO REGULATIONS.—The Securities and Exchange Commission shall revise section 203.501(a) of title 17, Code of Federal Regulations, and any other definition of “accredited investor” in a rule of the Commission in the same manner as such definition is revised under subsection (a).
A BILL

To make reforms to the capital markets of the United States, and for other purposes.

JULY 17, 2023

Reported from the Committee on Financial Services with an amendment

Committee on Education and the Workforce discharged;

JULY 17, 2023

Reported from the Committee on Financial Services with an amendment

JULY 17, 2023

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