

117TH CONGRESS
2D SESSION

S. _____

To encourage more companies to go public, improve the private capital markets, and enhance investment opportunities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To encourage more companies to go public, improve the private capital markets, and enhance investment opportunities, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Jumpstart our Business Startups Act of 2022”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definition.

TITLE I—ENCOURAGING COMPANIES TO BE PUBLICLY TRADED

Sec. 101. Study on IPO fees.

2

- Sec. 102. Definition of emerging growth company.
- Sec. 103. Material disclosure improvements.
- Sec. 104. Semiannual reports.
- Sec. 105. Restoring shareholder transparency.
- Sec. 106. Definition of investment adviser.
- Sec. 107. Venture exchanges.
- Sec. 108. Intelligent tick study.

TITLE II—IMPROVING THE MARKET FOR PRIVATE CAPITAL

- Sec. 201. Access to capital for rural-area small businesses.
- Sec. 202. Investment companies.
- Sec. 203. Regulatory definition of venture capital fund.
- Sec. 204. Micro-offering exemption.
- Sec. 205. Unlocking capital for small businesses.
- Sec. 206. Registration exemption for merger and acquisition brokers.

TITLE III—ENHANCING RETAIL INVESTOR ACCESS TO
INVESTMENT OPPORTUNITIES

- Sec. 301. Exemption.
- Sec. 302. Amendments to acquired fund fees and expenses reporting on investment company registration statements.
- Sec. 303. Extension of Rule 701.
- Sec. 304. Closed-end company authority to invest in private funds.
- Sec. 305. Crowdfunding revisions.
- Sec. 306. Equal opportunity for all investors.
- Sec. 307. Exemption from State regulation of securities.
- Sec. 308. Retirement savings modernization.

TITLE IV—IMPROVING REGULATORY OVERSIGHT

- Sec. 401. Studies, reports, and rules regarding small entities.
- Sec. 402. Increasing opportunities for retail investors.
- Sec. 403. Tracking bad actors.
- Sec. 404. Personally identifiable information excluded from consolidated audit trail reporting requirements.
- Sec. 405. Removal of administrative proceedings.
- Sec. 406. Parity for registered index-linked annuities regarding registration rules.
- Sec. 407. Stress test relief for nonbanks.

1 **SEC. 2. DEFINITION.**

- 2 In this Act, the term “Commission” means the Secu-
- 3 rities and Exchange Commission.

1 **TITLE I—ENCOURAGING COMPA-**
2 **NIES TO BE PUBLICLY TRAD-**
3 **ED**

4 **SEC. 101. STUDY ON IPO FEES.**

5 (a) DEFINITIONS.—In this section:

6 (1) IPO.—The term “IPO” means an initial
7 public offering.

8 (2) SMALL- AND MEDIUM-SIZED COMPANY.—
9 The term “small- and medium-sized company”
10 means an issuer with an initial public float deter-
11 mination of less than \$700,000,000.

12 (b) STUDY.—The Commission, in consultation with
13 the Financial Industry Regulatory Authority, shall carry
14 out a study of the costs associated with small- and me-
15 dium-sized companies to undertake IPOs and Tier 2 offer-
16 ings, as defined in section 230.251 of title 17, Code of
17 Federal Regulations. In carrying out such study, the Com-
18 mission shall—

19 (1) consider the direct and indirect costs of an
20 IPO, including—

21 (A) fees, such as gross spreads paid to un-
22 derwriters, IPO advisors, and other profes-
23 sionals;

24 (B) compliance with Federal and State se-
25 curities laws at the time of the IPO; and

1 (C) such other IPO-related costs as the
2 Commission determines appropriate;

3 (2) compare and analyze the costs of an IPO
4 with the costs of obtaining alternative sources of fi-
5 nancing and of liquidity;

6 (3) consider the impact of such costs on capital
7 formation;

8 (4) analyze the impact of those costs on the
9 availability of public securities of small- and me-
10 dium-sized companies to retail investors; and

11 (5) analyze trends in IPOs over a time period
12 the Commission determines is appropriate to analyze
13 IPO pricing practices, considering—

14 (A) the number of IPOs;

15 (B) how costs for IPOs have evolved over
16 time, including fees paid to underwriters, in-
17 vestment advisory firms, and other professions
18 for services in connection with an IPO;

19 (C) the number of brokers and dealers ac-
20 tive in underwriting IPOs;

21 (D) the different types of services that un-
22 derwriters and related persons provide before
23 and after a small- or medium-sized company
24 IPO and the factors impacting underwriting
25 costs;

1 (E) changes in the costs and availability of
2 investment research for small- and medium-
3 sized companies; and

4 (F) any other consideration the Commis-
5 sion considers necessary and appropriate.

6 (c) REPORT.—Not later than 1 year after the date
7 of enactment of this Act, the Commission shall submit to
8 Congress a report containing all findings and determina-
9 tions made in carrying out the study required under sub-
10 section (b) and any administrative or legislative rec-
11 ommendations the Commission may have.

12 **SEC. 102. DEFINITION OF EMERGING GROWTH COMPANY.**

13 (a) DEFINITIONS.—

14 (1) SECURITIES ACT OF 1933.—Section
15 2(a)(19)(B) of the Securities Act of 1933 (15
16 U.S.C. 77b(a)(19)(B)) is amended by striking
17 “fifth” and inserting “tenth”.

18 (2) SECURITIES EXCHANGE ACT OF 1934.—Sub-
19 paragraph (B) of the first paragraph (80) of section
20 3(a) of the Securities Exchange Act of 1934 (15
21 U.S.C. 78c(a)) (relating to emerging growth compa-
22 nies) is amended by striking “fifth” and inserting
23 “tenth”.

24 (b) RULEMAKING.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Commis-
3 sion shall issue an interim final rule carrying out the
4 amendments made by subsection (a).

5 (2) DEFINITIONS.—In amending the definition
6 of emerging growth company, as required under
7 paragraph (1), the Commission shall not make or so-
8 licit feedback on alterations to the definition of
9 emerging growth company to narrow the definition
10 or increase the regulatory obligations of, or restric-
11 tions on, emerging growth companies.

12 **SEC. 103. MATERIAL DISCLOSURE IMPROVEMENTS.**

13 (a) STRIKING OF PROVISIONS OF THE INVESTOR
14 PROTECTION AND SECURITIES REFORM ACT OF 2010.—

15 (1) IN GENERAL.—Section 953 of the Investor
16 Protection and Securities Reform Act of 2010 (Pub-
17 lic Law 111–103; 124 Stat. 1903) is amended—

18 (A) in subsection (a), by striking “DISCLO-
19 SURE OF PAY VERSUS PERFORMANCE.—”; and

20 (B) by striking subsection (b).

21 (2) RULES.—The Commission shall repeal any
22 rule, including any amendment to any rule of the
23 Commission, issued under section 953(b) of the In-
24 vestor Protection and Securities Reform Act of 2010

1 (15 U.S.C. 78l note), as in effect as of the day be-
2 fore the date of enactment of this Act.

3 (3) PROHIBITION ON SUBSTANTIALLY SIMILAR
4 RULES.—The Commission may not promulgate any
5 rule that is substantially similar to a rule that is re-
6 pealed under paragraph (2).

7 (b) STRIKING OF SECTIONS OF TITLE XV OF THE
8 DODD-FRANK WALL STREET REFORM AND CONSUMER
9 PROTECTION ACT.—

10 (1) DODD-FRANK WALL STREET REFORM AND
11 CONSUMER PROTECTION ACT.—Title XV of the
12 Dodd-Frank Wall Street Reform and Consumer Pro-
13 tection Act (Public Law 111–203) is amended—

14 (A) by striking section 1502 (15 U.S.C.
15 78m note);

16 (B) by striking section 1503 (15 U.S.C.
17 78m–2); and

18 (C) by striking section 1504.

19 (2) SECURITIES EXCHANGE ACT OF 1934.—Sec-
20 tion 13 of the Securities Exchange Act of 1934 (15
21 U.S.C. 78m) is amended—

22 (A) by striking subsections (p) and (q);
23 and

24 (B) by redesignating subsection (r) as sub-
25 section (p).

1 (3) REPEAL OF RULES ISSUED UNDER APPLICA-
2 BLE PROVISIONS.—The Commission shall repeal any
3 rule, including any amendment to any rule of the
4 Commission, issued under—

5 (A) section 1502, 1503, or 1504 of the
6 Dodd-Frank Wall Street Reform and Consumer
7 Protection Act (Public Law 111–203), as in ef-
8 fect as of the day before the date of enactment
9 of this Act; or

10 (B) subsection (p) or (q) of section 13 of
11 the Securities Exchange Act of 1934 (15
12 U.S.C. 78m), as in effect as of the day before
13 the date of enactment of this Act.

14 (4) PROHIBITION ON SUBSTANTIALLY SIMILAR
15 RULES.—The Commission may not promulgate any
16 rule that is substantially similar to a rule that is re-
17 pealed under paragraph (3).

18 (5) CLERICAL AMENDMENT.—The table of con-
19 tents in section 1(b) of the Dodd-Frank Wall Street
20 Reform and Consumer Protection Act is amended by
21 striking the items relating to sections 1502, 1503,
22 and 1504.

1 **SEC. 104. SEMIANNUAL REPORTS.**

2 Section 13 of the Securities Exchange Act of 1934
3 (15 U.S.C. 78m), as amended by section 103(b)(2), is
4 amended by adding at the end the following:

5 “(q) ISSUER ELECTION.—With respect to any report
6 that, under this section, or under a rule issued under this
7 section, an issuer is required to file on a quarterly basis,
8 the issuer may elect to instead file the report on a semi-
9 annual basis.”.

10 **SEC. 105. RESTORING SHAREHOLDER TRANSPARENCY.**

11 (a) PROXIES.—Section 14(a) of the Securities Ex-
12 change Act of 1934 (15 U.S.C. 78n(a)) is amended by
13 adding at the end the following:

14 “(3) For the purposes of this subsection, soliciting
15 any proxy or consent or authorization in respect of a secu-
16 rity—

17 “(A) includes the furnishing of a form of proxy
18 or other communication to a holder of the security
19 under circumstances reasonably calculated to result
20 in the procurement, withholding, or revocation of a
21 proxy, including any proxy voting advice that—

22 “(i) makes a recommendation to the secu-
23 rity holder as to the vote, consent, or authoriza-
24 tion of the security holder on a specific matter
25 for which the approval of the security holder is
26 solicited; and

1 “(ii) is furnished by a person that—

2 “(I) markets the expertise of the per-
3 son as a provider of such proxy voting ad-
4 vice, separately from other forms of invest-
5 ment advice; and

6 “(II) sells such proxy voting advice
7 for a fee; and

8 “(B) does not include the furnishing of any
9 proxy voting advice by a person that furnishes such
10 advice only in response to an unprompted request.”.

11 (b) SHAREHOLDER PROPOSALS.—

12 (1) IN GENERAL.—The Securities Exchange
13 Act of 1934 (15 U.S.C. 78a et seq.) is amended—

14 (A) in section 6(b) (15 U.S.C. 78f(b)), by
15 adding at the end the following:

16 “(11) The rules of the exchange do not require
17 an issuer to be in compliance with section 240.14a-
18 8 of title 17, Code of Federal Regulations, or any
19 successor regulation, as a condition of having a secu-
20 rity of the issuer listed on the exchange.”; and

21 (B) in section 14 (15 U.S.C. 78n), by add-
22 ing at the end the following:

23 “(k) SHAREHOLDER PROPOSALS.—Notwithstanding
24 any other provision of law or regulation, beginning on the
25 date of enactment of this subsection, no issuer shall be

1 subject to the requirements of section 240.14a–8 of title
2 17, Code of Federal Regulations, or any successor regula-
3 tion, unless the issuer agrees to be subject to those re-
4 quirements.”.

5 (2) BASES FOR EXCLUSION.—Not later than 1
6 year after the date of enactment of this Act, the
7 Commission shall amend section 240.14a–8(i) of
8 title 17, Code of Federal Regulations, or any suc-
9 cessor regulation, to provide that all of the bases for
10 exclusion of a proposal under that provision shall
11 apply without regard to whether the proposal relates
12 to a significant social policy issue.

13 (3) MARKET VALUE.—Not later than 30 days
14 after the date of enactment of this Act, the Commis-
15 sion shall amend section 240.14a–8(b)(1) of title 17,
16 Code of Federal Regulations, or any successor regula-
17 tion—

18 (A) by amending clause (i) to read as fol-
19 lows: “(i) You must hold at least 1 percent of
20 the market value of the company’s securities.”;
21 and

22 (B) by striking clause (vi).

23 **SEC. 106. DEFINITION OF INVESTMENT ADVISER.**

24 Section 202(a)(11) of the Investment Advisers Act of
25 1940 (15 U.S.C. 80b–2(a)(11)) is amended by striking

1 “or (H)” and inserting “(H) any broker or dealer who
2 provides research services to an investment manager and
3 accepts payment for those services from the investment
4 manager’s own money, from a research payment account
5 funded with money from a client of the investment man-
6 ager, or a combination thereof, provided that the payment
7 method of the investment manager is subject to, either di-
8 rectly or by contractual obligation, the Directive 2014/65/
9 EU of the European Parliament, the Council of 15 May
10 2014 on markets in financial instruments and amending
11 Directive 2002/92/EC and Directive 2011/61/EU, as im-
12 plemented by the European Union member states, or any
13 other law from any foreign jurisdiction that is substan-
14 tially similar to that directive and the implementing rules
15 and regulations of that directive; or (I)”.

16 **SEC. 107. VENTURE EXCHANGES.**

17 (a) SECURITIES EXCHANGE ACT OF 1934.—Section
18 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f)
19 is amended by adding at the end the following:

20 “(m) VENTURE EXCHANGE.—

21 “(1) DEFINITIONS.—In this subsection:

22 “(A) EARLY-STAGE, GROWTH COMPANY.—

23 “(i) IN GENERAL.—The term ‘early-
24 stage, growth company’ means an issuer—

1 “(I) that has not made any reg-
2 istered initial public offering of any
3 securities of the issuer; and

4 “(II) with a public float of not
5 more than the value of public float re-
6 quired to qualify as a large acceler-
7 ated filer under section 240.12b-2 of
8 title 17, Code of Federal Regulations,
9 or any successor regulation.

10 “(ii) TREATMENT WHEN PUBLIC
11 FLOAT EXCEEDS THRESHOLD.—An issuer
12 shall not cease to be an early-stage, growth
13 company by reason of the public float of
14 the issuer exceeding the threshold specified
15 in clause (i)(II) until the later of—

16 “(I) the end of the period of 24
17 consecutive months during which the
18 public float of the issuer exceeds
19 \$2,000,000,000 (as such amount is
20 indexed for inflation every 5 years by
21 the Commission to reflect the change
22 in the Consumer Price Index for All
23 Urban Consumers published by the
24 Bureau of Labor Statistics, setting

1 the threshold to the nearest
2 \$1,000,000); and

3 “(II) the end of the 1-year period
4 following the end of the 24-month pe-
5 riod described in subclause (I), if the
6 issuer requests the 1-year extension
7 from a venture exchange and the ven-
8 ture exchange elects to provide that
9 extension.

10 “(B) PUBLIC FLOAT.—With respect to an
11 issuer, the term ‘public float’ means the aggre-
12 gate worldwide market value of the voting and
13 non-voting common equity of the issuer held by
14 non-affiliates.

15 “(C) VENTURE SECURITY.—

16 “(i) IN GENERAL.—The term ‘venture
17 security’ means—

18 “(I) a security of an early-stage,
19 growth company that is exempt from
20 registration pursuant to section 3(b)
21 of the Securities Act of 1933 (15
22 U.S.C. 77c(b));

23 “(II) a security of an emerging
24 growth company; or

1 “(III) a security registered under
2 section 12(b) and listed on a venture
3 exchange (or, prior to listing on a ven-
4 ture exchange, listed on a national se-
5 curities exchange) where—

6 “(aa) the issuer of the secu-
7 rity has a public float that is not
8 more than the value of public
9 float required to qualify as a
10 large accelerated filer under sec-
11 tion 240.12b-2 of title 17, Code
12 of Federal Regulations, or any
13 successor regulation; or

14 “(bb) the average daily
15 trade volume is not more than
16 75,000 shares during a contin-
17 uous 60-day period.

18 “(ii) TREATMENT WHEN PUBLIC
19 FLOAT EXCEEDS THRESHOLD.—A security
20 shall not cease to be a venture security by
21 reason of the public float of the issuer of
22 the security exceeding the threshold speci-
23 fied in clause (i)(III)(aa) until the later
24 of—

1 “(I) the end of the period of 24
2 consecutive months beginning on the
3 date on which—

4 “(aa) the public float of the
5 issuer exceeds \$2,000,000,000;
6 and

7 “(bb) the average daily
8 trade volume of the security is
9 not less than 100,000 shares
10 during a continuous 60-day pe-
11 riod; and

12 “(II) the end of the 1-year period
13 following the end of the 24-month pe-
14 riod described in subclause (I), if the
15 issuer of the security requests the 1-
16 year extension from a venture ex-
17 change and the venture exchange
18 elects to provide that extension.

19 “(2) REGISTRATION.—

20 “(A) IN GENERAL.—A person may register
21 (and a national securities exchange may reg-
22 ister a listing tier of the exchange) as a na-
23 tional securities exchange solely for the purpose
24 of trading venture securities by filing an appli-
25 cation with the Commission pursuant to sub-

1 section (a) and the rules and regulations there-
2 under.

3 “(B) PUBLICATION OF NOTICE.—The
4 Commission shall, upon the filing of an applica-
5 tion under subparagraph (A), publish notice of
6 the filing and afford interested persons an op-
7 portunity to submit written data, views, and ar-
8 guments concerning the application.

9 “(C) APPROVAL OR DENIAL.—

10 “(i) IN GENERAL.—Not later than 90
11 days after the date on which a notice is
12 published under subparagraph (B), or
13 within such longer period as to which the
14 applicant consents, the Commission shall—

15 “(I) by order grant the registra-
16 tion; or

17 “(II) institute a denial pro-
18 ceeding under clause (ii) to determine
19 whether registration should be denied.

20 “(ii) DENIAL PROCEEDING.—

21 “(I) IN GENERAL.—A proceeding
22 under clause (i)(II) shall—

23 “(aa) include notice of the
24 grounds for denial under consid-

1 eration and opportunity for hear-
2 ing; and

3 “(bb) be concluded not later
4 than 180 days after the date on
5 which the notice is published
6 under subparagraph (B).

7 “(II) ORDER.—At the conclusion
8 of a proceeding under clause (i)(II),
9 the Commission shall by order grant
10 or deny the registration.

11 “(III) EXTENSION.—The Com-
12 mission may extend the time for con-
13 clusion of a proceeding under clause
14 (i)(II) for a period of not more than
15 90 days if the Commission—

16 “(aa) finds good cause for
17 the extension; and

18 “(bb) publishes the reasons
19 for the finding described in item
20 (aa) or for such longer period as
21 to which the applicant consents.

22 “(iii) CRITERIA FOR APPROVAL OR
23 DENIAL.—The Commission shall—

24 “(I) grant a registration under
25 this paragraph if the Commission

1 finds that the requirements of this
2 Act and the rules and regulations
3 thereunder with respect to the appli-
4 cant are satisfied; and

5 “(II) deny a registration under
6 this paragraph if the Commission does
7 not make the finding described in sub-
8 clause (I).

9 “(3) POWERS AND RESTRICTIONS.—In addition
10 to the powers and restrictions otherwise applicable
11 to a national securities exchange, a venture ex-
12 change—

13 “(A) may only constitute, maintain, or pro-
14 vide a market place or facilities for bringing to-
15 gether purchasers and sellers of venture securi-
16 ties;

17 “(B) may not extend unlisted trading
18 privileges to any venture security;

19 “(C) may only, if the venture exchange is
20 a listing tier of another national securities ex-
21 change, allow trading in securities that are reg-
22 istered under section 12(b) on a national securi-
23 ties exchange other than a venture exchange;
24 and

1 “(D) may, subject to the rule filing process
2 under section 19(b)—

3 “(i) determine the increment to be
4 used for quoting and trading venture secu-
5 rities on the exchange; and

6 “(ii) choose to carry out periodic auc-
7 tions for the sale of a venture security in-
8 stead of providing continuous trading of
9 the venture security.

10 “(4) TREATMENT OF CERTAIN EXEMPTED SE-
11 CURITIES.—A security that is exempt from registra-
12 tion pursuant to section 3(b) of the Securities Act
13 of 1933 (15 U.S.C. 77c(b)) shall be exempt from
14 section 12(a) of this Act to the extent the security
15 is traded on a venture exchange, if the issuer of the
16 security is in compliance with—

17 “(A) all disclosure obligations of such sec-
18 tion 3(b) and the regulations issued under such
19 section; and

20 “(B) ongoing disclosure obligations of the
21 applicable venture exchange that are similar to
22 those provided by an issuer under tier 2, as de-
23 scribed in sections 230.251 through 230.263 of
24 title 17, Code of Federal Regulations, or any
25 successor regulations.

1 “(5) VENTURE SECURITIES TRADED ON VEN-
2 TURE EXCHANGES MAY NOT TRADE ON NON-VEN-
3 TURE EXCHANGES.—A venture security may not be
4 traded on a national securities exchange that is not
5 a venture exchange during any period in which the
6 venture security is being traded on a venture ex-
7 change.

8 “(6) COMMISSION AUTHORITY TO LIMIT CER-
9 TAIN TRADING.—The Commission may limit trans-
10 actions in venture securities that are not effected on
11 a national securities exchange as appropriate to pro-
12 mote efficiency, competition, and capital formation,
13 and to protect investors.

14 “(7) DISCLOSURES TO INVESTORS.—The Com-
15 mission shall issue regulations to ensure that per-
16 sons selling or purchasing venture securities on a
17 venture exchange are provided disclosures sufficient
18 to understand—

19 “(A) the characteristics unique to venture
20 securities; and

21 “(B) in the case of a venture exchange
22 that is a listing tier of another national securi-
23 ties exchange, that the venture exchange is dis-
24 tinct from the other national securities ex-
25 change.

1 “(8) RULE OF CONSTRUCTION.—Nothing in
2 this subsection may be construed as requiring trans-
3 actions in venture securities to be effected on a na-
4 tional securities exchange.”.

5 (b) SECURITIES ACT OF 1933.—Section 18 of the Se-
6 curities Act of 1933 (15 U.S.C. 77r) is amended—

7 (1) by redesignating subsection (d) as sub-
8 section (e); and

9 (2) by inserting after subsection (c) the fol-
10 lowing:

11 “(d) TREATMENT OF SECURITIES LISTED ON A VEN-
12 TURE EXCHANGE.—Notwithstanding subsection (b), a se-
13 curity is not a covered security pursuant to subsection
14 (b)(1)(A) if the security is only listed, or authorized for
15 listing, on a venture exchange under section 6(m) of the
16 Securities Exchange Act of 1934 (15 U.S.C. 78f(m)).”.

17 (c) SENSE OF CONGRESS.—It is the sense of Con-
18 gress that the Commission should—

19 (1) when necessary or appropriate in the public
20 interest and consistent with the protection of inves-
21 tors, make use of the general exemptive authority of
22 the Commission under section 36 of the Securities
23 Exchange Act of 1934 (15 U.S.C. 78mm) with re-
24 spect to the provisions added by the amendments
25 made by this section; and

1 (2) if the Commission determines appropriate,
2 create an Office of Venture Exchanges within the
3 Division of Trading and Markets of the Commission.

4 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
5 tion or the amendments made by this section shall be con-
6 strued to impair or limit the construction of the anti-fraud
7 provisions of the securities laws, as defined in section 3(a)
8 of the Securities Exchange Act of 1934 (15 U.S.C.
9 78c(a)), or the authority of the Commission under those
10 provisions.

11 (e) **EFFECTIVE DATE FOR TIERS OF EXISTING NA-**
12 **TIONAL SECURITIES EXCHANGES.**—In the case of a secu-
13 rities exchange that is registered as a national securities
14 exchange under section 6 of the Securities Exchange Act
15 of 1934 (15 U.S.C. 78f) on the date of enactment of this
16 Act, any election for a listing tier of that exchange to be
17 treated as a venture exchange under subsection (m) of
18 such section, as added by subsection (a) of this section,
19 shall not take effect before the date that is 180 days after
20 such date of enactment.

21 **SEC. 108. INTELLIGENT TICK STUDY.**

22 (a) **TICK SIZES.**—Section 11A(c)(6) of the Securities
23 Exchange Act of 1934 (15 U.S.C. 78k–1(e)(6)) is amend-
24 ed to read as follows:

1 “(6) TICK SIZE.—If the Commission determines that
2 the securities of emerging growth companies should be
3 quoted and traded using a minimum increment of greater
4 than \$0.01, the Commission may, by rule, designate a
5 minimum increment for the securities of emerging growth
6 companies that is greater than \$0.01 but not more than
7 \$0.25 for use in all quoting and trading of securities in
8 any exchange or other venue.”.

9 (b) REPORT.—

10 (1) DEFINITION OF SECURITY.—In this sub-
11 section, the term “security” has the meaning given
12 the term in section 3(a) of the Securities Exchange
13 Act of 1934 (15 U.S.C. 78c(a)).

14 (2) REPORT.—Not later than 1 year after the
15 date of enactment of this Act, the Commission shall
16 conduct a study and submit to Congress a report
17 that examines—

18 (A) the transition to trading and quoting
19 securities in increments other than \$0.01, which
20 includes increments higher and lower than
21 \$0.01;

22 (B) the impact that the change described
23 in subparagraph (A) has had on liquidity and
24 market quality for small, middle, and large cap-
25 italization company securities; and

1 (C) whether there is sufficient economic in-
2 centive to support trading operations in the se-
3 curities described in subparagraph (B) in incre-
4 ments other than \$0.01.

5 **TITLE II—IMPROVING THE**
6 **MARKET FOR PRIVATE CAPITAL**

7 **SEC. 201. ACCESS TO CAPITAL FOR RURAL-AREA SMALL**
8 **BUSINESSES.**

9 Section 4(j) of the Securities Exchange Act of 1934
10 (15 U.S.C. 78d(j)) is amended—

11 (1) in paragraph (4)(C), by inserting “rural-
12 area small businesses,” after “women-owned small
13 businesses,”; and

14 (2) in paragraph (6)(B)(iii), by inserting
15 “rural-area small businesses,” after “women-owned
16 small businesses,”.

17 **SEC. 202. INVESTMENT COMPANIES.**

18 Section 3(c)(1) of the Investment Company Act of
19 1940 (15 U.S.C. 80a-3(c)(1)) is amended—

20 (1) in the matter preceding subparagraph (A),
21 in the first sentence, by striking “250 persons” and
22 inserting “500 persons”; and

23 (2) in subparagraph (C)(i), by striking
24 “\$10,000,000” and inserting “\$50,000,000”.

1 **SEC. 203. REGULATORY DEFINITION OF VENTURE CAPITAL**
2 **FUND.**

3 Not later than 180 days after the date of enactment
4 of this Act, the Commission shall—

5 (1) revise the definition of a qualifying invest-
6 ment under paragraph (c) of section 275.203(l)–1 of
7 title 17, Code of Federal Regulations—

8 (A) to include an equity security issued by
9 a qualifying portfolio company, whether ac-
10 quired directly from the company or in a sec-
11 ondary acquisition; and

12 (B) to specify that an investment in an-
13 other venture capital fund is a qualifying in-
14 vestment under that definition; and

15 (2) revise paragraph (a) of section 275.203(l)–
16 1 of title 17, Code of Federal Regulations, to re-
17 quire, as a condition of a private fund qualifying as
18 a venture capital fund under that paragraph, that
19 the qualifying investments of the private fund are—

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

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

1 **SEC. 204. MICRO-OFFERING EXEMPTION.**

2 (a) IN GENERAL.—Section 4 of the Securities Act of
3 1933 (15 U.S.C. 77d) is amended—

4 (1) in subsection (a), by adding at the end the
5 following:

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

8 (2) by adding at the end the following:

9 “(f) MICRO-OFFERINGS.—

10 “(1) IN GENERAL.—The transactions referred
11 to in subsection (a)(8) are transactions involving the
12 sale of securities by an issuer (including all entities
13 controlled by or under common control with the
14 issuer) where the aggregate amount of all securities
15 sold by the issuer, including any amount sold in reli-
16 ance on the exemption provided under subsection
17 (a)(8), during the 12-month period preceding such
18 transaction, does not exceed \$500,000.

19 “(2) ADJUSTMENT.—The dollar amount in
20 paragraph (1) shall be adjusted by the Commission
21 not less frequently than once every 5 years and at
22 the same time as the adjustments made under sec-
23 tion 4A(h), by notice published in the Federal Reg-
24 ister to reflect any change in the Consumer Price
25 Index for All Urban Consumers published by the

1 Bureau of Labor Statistics, setting the threshold to
2 the nearest 10,000.

3 “(3) BAD ACTOR PROHIBITION.—The exemp-
4 tion under this subsection shall not apply to any per-
5 son subject to—

6 “(A) an event that would disqualify an
7 issuer or other covered person under section
8 230.506(d)(1) of title 17, Code of Federal Reg-
9 ulations, or any successor regulation; or

10 “(B) a statutory disqualification, as de-
11 fined in section 3(a) of the Securities Exchange
12 Act of 1934 (15 U.S.C. 78c(a)).”.

13 (b) EXEMPTION UNDER STATE REGULATIONS.—Sec-
14 tion 18(b)(4) of the Securities Act of 1933 (15 U.S.C.
15 77r(b)(4)) is amended—

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

18 (2) in subparagraph (G), by striking the period
19 and inserting “; or”; and

20 (3) by adding at the end the following:

21 “(H) section 4(a)(8).”.

22 **SEC. 205. UNLOCKING CAPITAL FOR SMALL BUSINESSES.**

23 (a) SAFE HARBORS FOR PRIVATE PLACEMENT BRO-
24 KERS AND FINDERS.—

1 (1) IN GENERAL.—Section 15 of the Securities
2 Exchange Act of 1934 (15 U.S.C. 78o) is amended
3 by adding at the end the following:

4 “(p) PRIVATE PLACEMENT BROKER SAFE HAR-
5 BOR.—

6 “(1) REGISTRATION REQUIREMENTS.—Not
7 later than 270 days after the date of enactment of
8 this subsection, the Commission shall promulgate
9 regulations with respect to private placement brokers
10 that are no more stringent than those imposed on
11 funding portals. Not later than 270 days after the
12 publication of the proposed regulations in the Fed-
13 eral Register, the Commission shall promulgate final
14 rules.

15 “(2) NATIONAL SECURITIES ASSOCIATIONS.—
16 Not later than 270 days after the date of enactment
17 of this subsection, the Commission shall promulgate
18 regulations that require the rules of any national se-
19 curities association to allow a private placement
20 broker to become a member of such national securi-
21 ties association subject to reduced membership re-
22 quirements consistent with this subsection. Not later
23 than 270 days after the publication of the proposed
24 regulations in the Federal Register, the Commission
25 shall promulgate final rules.

1 “(3) DISCLOSURES REQUIRED.—Before the
2 consummation of a transaction effecting a private
3 placement, a private placement broker shall disclose
4 clearly and conspicuously, in writing, to all parties
5 to the transaction as a result of the broker’s activi-
6 ties—

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

9 “(B) the amount of any compensation or
10 anticipated compensation for services rendered
11 as a private placement broker in connection
12 with such transaction;

13 “(C) the person to whom any such com-
14 pensation is made;

15 “(D) any beneficial interest in the issuer,
16 direct or indirect, of the private placement
17 broker, of a member of the immediate family of
18 the private placement broker, of an associated
19 person of the private placement broker, or of a
20 member of the immediate family of such associ-
21 ated person.

22 “(4) PRIVATE PLACEMENT BROKER DE-
23 FINED.—In this subsection, the term ‘private place-
24 ment broker’ means a person that—

1 “(A) receives transaction-based compensa-
2 tion—

3 “(i) for effecting a transaction by—

4 “ (I) introducing an issuer of se-
5 curities and a buyer of such securities
6 in connection with the sale of a busi-
7 ness effected as the sale of securities;
8 or

9 “ (II) introducing an issuer of se-
10 curities and a buyer of such securities
11 in connection with the placement of
12 securities in transactions that are ex-
13 empt from registration requirements
14 under the Securities Act of 1933 (15
15 U.S.C. 77a et seq.); and

16 “(ii) that is not with respect to—

17 “ (I) a class of publicly traded se-
18 curities;

19 “ (II) the securities of an invest-
20 ment company (as defined in section 3
21 of the Investment Company Act of
22 1940 (15 U.S.C. 80a-3)); or

23 “ (III) a variable or equity-in-
24 dexed annuity or other variable or eq-
25 uity-indexed life insurance product;

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

4 “(i) does not handle or take posses-
5 sion of the funds or securities; and

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

9 “(C) is not a finder, as defined in sub-
10 section (q).

11 “(q) FINDER SAFE HARBOR.—

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

14 “(2) NATIONAL SECURITIES ASSOCIATIONS.—A
15 finder shall not be required to become a member of
16 any national securities association.

17 “(3) FINDER DEFINED.—In this subsection, the
18 term ‘finder’ means a person described in subpara-
19 graphs (A) and (B) of subsection (p)(4) that—

20 “(A) receives transaction-based compensa-
21 tion of not more than \$500,000 in any calendar
22 year;

23 “(B) receives transaction-based compensa-
24 tion in connection with transactions that result

1 in a single issuer selling securities valued at not
2 more than \$15,000,000 in any calendar year;

3 “(C) receives transaction-based compensa-
4 tion in connection with transactions that result
5 in any combination of issuers selling securities
6 valued at not more than \$30,000,000 in any
7 calendar year; or

8 “(D) receives transaction-based compensa-
9 tion in connection with fewer than 16 trans-
10 actions that are not part of the same offering
11 or are otherwise unrelated in any calendar year.

12 “(4) ADJUSTMENT FOR INFLATION.—The
13 amounts described in paragraph (3) shall be in-
14 creased each year by an amount equal to the per-
15 centage increase, if any, in the Consumer Price
16 Index, as determined by the Department of Labor or
17 its successor.”.

18 (2) VALIDITY OF CONTRACTS WITH REG-
19 ISTERED PRIVATE PLACEMENT BROKERS AND FIND-
20 ERS.—Section 29 of the Securities Exchange Act
21 (15 U.S.C. 78cc) is amended by adding at the end
22 the following:

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

1 “(1) the transaction is one in which the issuer
2 engaged the services of a broker or dealer that is not
3 registered under this Act with respect to such trans-
4 action;

5 “(2) such issuer received a self-certification
6 from such broker or dealer certifying that such
7 broker or dealer is a registered private placement
8 broker under section 15(p) or a finder under section
9 15(q); and

10 “(3) the issuer either did not know that such
11 self-certification was false or did not have a reason-
12 able basis to believe that such self-certification was
13 false.”.

14 (3) REMOVAL OF PRIVATE PLACEMENT BRO-
15 KERS FROM DEFINITIONS OF BROKER.—

16 (A) RECORDS AND REPORTS ON MONE-
17 TARY INSTRUMENTS TRANSACTIONS.—Section
18 5312 of title 31, United States Code, is amend-
19 ed in subsection (a)(2)(G) by inserting “with
20 the exception of a private placement broker, as
21 defined in section 15(p)(4) of the Securities Ex-
22 change Act of 1934 (15 U.S.C. 78o(p)(4))” be-
23 fore the semicolon at the end.

24 (B) SECURITIES EXCHANGE ACT OF
25 1934.—Section 3(a)(4) of the Securities Ex-

1 change Act of 1934 (15 U.S.C. 78c(a)(4)) is
2 amended by adding at the end the following:

3 “(G) PRIVATE PLACEMENT BROKERS.—A
4 private placement broker, as defined in section
5 15(p)(4), is not a broker for the purposes of
6 this Act.”.

7 (b) LIMITATIONS ON STATE LAW.—Section 15(i) of
8 the Securities Exchange Act of 1934 (15 U.S.C. 78o(i))
9 is amended—

10 (1) by redesignating paragraph (3) as para-
11 graph (4); and

12 (2) by inserting after paragraph (2) the fol-
13 lowing:

14 “(3) PRIVATE PLACEMENT BROKERS AND FIND-
15 ERS.—

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

24 “(B) DEFINITION OF STATE.—For pur-
25 poses of this paragraph, the term ‘State’ in-

1 cludes the District of Columbia and each terri-
2 tory of the United States.”.

3 **SEC. 206. REGISTRATION EXEMPTION FOR MERGER AND**
4 **ACQUISITION BROKERS.**

5 (a) IN GENERAL.—Section 15(b) of the Securities
6 Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by
7 adding at the end the following:

8 “(13) REGISTRATION EXEMPTION FOR MERGER
9 AND ACQUISITION BROKERS.—

10 “(A) DEFINITIONS.—In this paragraph:

11 “(i) BUSINESS COMBINATION RE-
12 LATED SHELL COMPANY.—The term ‘busi-
13 ness combination related shell company’
14 means a shell company that is formed by
15 an entity that is not a shell company solely
16 for the purpose of—

17 “(I) changing the corporate
18 domicile of that entity solely within
19 the United States; or

20 “(II) completing a business com-
21 bination transaction (as defined in
22 section 230.165(f) of title 17, Code of
23 Federal Regulations, or any successor
24 regulation) among not less than 1 en-

1 tity other than the company itself,
2 none of which is a shell company.

3 “(ii) CONTROL.—

4 “ (I) IN GENERAL.—The term
5 ‘control’ means the power, directly or
6 indirectly, to direct the management
7 or policies of a company, whether
8 through ownership of securities, by
9 contract, or otherwise.

10 “(II) PRESUMPTION.—For the
11 purposes of subclause (I), there shall
12 be a presumption of control if, upon
13 completion of a transaction, a buyer
14 or group of buyers—

15 “(aa) has the right to vote
16 25 percent or more of a class of
17 voting securities or the power to
18 sell or direct the sale of 25 per-
19 cent or more of a class of voting
20 securities; or

21 “(bb) in the case of a part-
22 nership or limited liability com-
23 pany, has the right to receive
24 upon dissolution, or has contrib-

1 uted, 25 percent or more of the
2 capital.

3 “(iii) ELIGIBLE PRIVATELY HELD
4 COMPANY.—The term ‘eligible privately
5 held company’ means a privately held com-
6 pany that meets both of the following con-
7 ditions:

8 “(I) The company does not have
9 any class of securities—

10 “(aa) registered, or required
11 to be registered, with the Com-
12 mission under section 12; or

13 “(bb) with respect to which
14 the company files, or is required
15 to file, periodic information, doc-
16 uments, and reports under sub-
17 section (d).

18 “(II)(aa) In the fiscal year end-
19 ing immediately before the fiscal year
20 in which the services of an M&A
21 broker are initially engaged with re-
22 spect to a securities transaction, the
23 company meets either of the following
24 conditions (determined in accordance

1 with the historical financial account-
2 ing records of the company):

3 “(AA) The earnings of the
4 company before interest, taxes,
5 depreciation, and amortization
6 are less than \$25,000,000.

7 “(BB) The gross revenues
8 of the company are less than
9 \$250,000,000.

10 “(bb) For purposes of this sub-
11 clause, the Commission may, by rule,
12 modify the dollar figures in subitem
13 (AA) or (BB) of item (aa) if the Com-
14 mission determines that such a modi-
15 fication is necessary or appropriate in
16 the public interest or for the protec-
17 tion of investors.

18 “(iv) M&A BROKER.—The term ‘M&A
19 broker’ means a broker, and any person
20 associated with a broker, engaged in the
21 business of effecting securities transactions
22 solely in connection with the transfer of
23 ownership of an eligible privately held com-
24 pany, regardless of whether the broker acts
25 on behalf of a seller or buyer, through the

1 purchase, sale, exchange, issuance, repur-
2 chase, or redemption of, or a business com-
3 bination involving, securities or assets of
4 the eligible privately held company, if the
5 broker reasonably believes that—

6 “(I) upon consummation of the
7 transaction, any person acquiring se-
8 curities or assets of the eligible pri-
9 vately held company, acting alone or
10 in concert—

11 “(aa) will control the eligible
12 privately held company or the
13 business conducted with the as-
14 sets of the eligible privately held
15 company; and

16 “(bb) directly or indirectly,
17 will be active in the management
18 of the eligible privately held com-
19 pany or the business conducted
20 with the assets of the eligible pri-
21 vately held company, including
22 without limitation, by—

23 “(AA) electing execu-
24 tive officers;

1 “(BB) approving the
2 annual budget;

3 “(CC) serving as an ex-
4 ecutive or other executive
5 manager; or

6 “(DD) carrying out
7 such other activities as the
8 Commission may, by rule,
9 determine to be in the public
10 interest; and

11 “(II) if any person is offered se-
12 curities in exchange for securities or
13 assets of the eligible privately held
14 company, that person will, before be-
15 coming legally bound to consummate
16 the transaction, receive or have rea-
17 sonable access to—

18 “(aa) the most recent fiscal
19 year-end financial statements of
20 the issuer of the securities, as
21 customarily prepared by the man-
22 agement of the issuer in the nor-
23 mal course of operations; and

1 “(bb) if the financial state-
2 ments of the issuer are audited,
3 reviewed, or compiled—

4 “(AA) any related
5 statement by the inde-
6 pendent accountant;

7 “(BB) a balance sheet
8 dated not more than 120
9 days before the date of the
10 offer; and

11 “(CC) information per-
12 taining to the management,
13 business, results of oper-
14 ations for the period covered
15 by the foregoing financial
16 statements and material loss
17 contingencies of the issuer.

18 “(v) SHELL COMPANY.—The term
19 ‘shell company’ means a company that, as
20 of the date of a transaction with an eligible
21 privately held company—

22 “(I) has no or nominal oper-
23 ations; and

24 “(II) has—

25 “(aa) no or nominal assets;

1 “(bb) assets consisting solely
2 of cash and cash equivalents; or

3 “(cc) assets consisting of
4 any amount of cash and cash
5 equivalents and nominal other as-
6 sets.

7 “(B) EXEMPTION.—Except as provided in
8 subparagraphs (C) and (D), an M&A broker
9 shall be exempt from registration under this
10 section.

11 “(C) EXCLUDED ACTIVITIES.—An M&A
12 broker is not exempt from registration under
13 subparagraph (B) if the M&A broker does any
14 of the following:

15 “(i) Directly or indirectly, in connec-
16 tion with the transfer of ownership of an
17 eligible privately held company, receives,
18 holds, transmits, or has custody of the
19 funds or securities to be exchanged by the
20 parties to the transaction.

21 “(ii) Engages on behalf of an issuer in
22 a public offering of any class of securi-
23 ties—

1 “(I) that is registered, or is re-
2 quired to be registered, with the Com-
3 mission under section 12; or

4 “(II) with respect to which the
5 issuer files, or is required to file, pe-
6 riod information, documents, and re-
7 ports under subsection (d).

8 “(iii) Engages on behalf of any party
9 in a transaction involving a shell company,
10 other than a business combination related
11 shell company.

12 “(iv) Directly, or indirectly through
13 any of its affiliates, provides financing re-
14 lating to the transfer of ownership of an
15 eligible privately held company.

16 “(v) Assists any party to obtain fi-
17 nancing from an unaffiliated third party
18 without—

19 “(I) complying with all other ap-
20 plicable laws in connection with such
21 assistance, including, if applicable,
22 part 220 of title 12, Code of Federal
23 Regulations, or any successor regula-
24 tions; and

1 “(II) disclosing any compensation
2 in writing to the party.

3 “(vi) Represents both the buyer and
4 the seller in the same transaction with-
5 out—

6 “(I) providing clear written dis-
7 closure with respect to the parties the
8 broker represents; and

9 “(II) obtaining written consent
10 from both parties to the joint rep-
11 resentation.

12 “(vii) Facilitates a transaction with a
13 group of buyers formed with the assistance
14 of the M&A broker to acquire the eligible
15 privately held company.

16 “(viii) Engages in a transaction in-
17 volving the transfer of ownership of an eli-
18 gible privately held company to a passive
19 buyer or group of passive buyers.

20 “(ix) Binds a party to a transfer of
21 ownership of an eligible privately held com-
22 pany.

23 “(D) DISQUALIFICATION.—An M&A
24 broker is not exempt from registration under
25 subparagraph (B) if the M&A broker (and, as

1 applicable, any officer, director, member, man-
2 ager, partner, or employee of the M&A
3 broker)—

4 “(i) has been barred from association
5 with a broker or dealer by the Commission,
6 any State, or any self-regulatory organiza-
7 tion; or

8 “(ii) is suspended from association
9 with a broker or dealer.

10 “(E) RULE OF CONSTRUCTION.—Nothing
11 in this paragraph may be construed to limit any
12 other authority of the Commission to exempt
13 any person, or any class of persons, from any
14 provision of this title, or from any provision of
15 any rule or regulation thereunder.

16 “(F) INFLATION ADJUSTMENT.—

17 “(i) IN GENERAL.—On the date that
18 is 5 years after the date of enactment of
19 this paragraph, and every 5 years there-
20 after, each dollar amount in subparagraph
21 (A)(iii)(II)(aa) shall be adjusted by—

22 “(I) dividing the annual value of
23 the Employment Cost Index For
24 Wages and Salaries, Private Industry
25 Workers (or any successor index), as

1 published by the Bureau of Labor
2 Statistics, for the calendar year pre-
3 ceeding the calendar year in which the
4 adjustment is being made by the an-
5 nual value of such index (or suc-
6 cessor) for the calendar year ending
7 December 31, 2020; and

8 “(II) multiplying such dollar
9 amount by the quotient obtained
10 under subclause (I).

11 “(ii) ROUNDING.—Each dollar
12 amount determined under clause (i) shall
13 be rounded to the nearest multiple of
14 \$100,000.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall take effect on the date that is 90 days
17 after the date of enactment of this Act.

18 **TITLE III—ENHANCING RETAIL**
19 **INVESTOR ACCESS TO IN-**
20 **VESTMENT OPPORTUNITIES**

21 **SEC. 301. EXEMPTION.**

22 (a) AMENDMENTS TO THE SARBANES-OXLEY ACT OF
23 2002.—Section 110 of the Sarbanes-Oxley Act of 2002
24 (15 U.S.C. 7220) is amended—

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

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

9 (3) by redesignating paragraphs (5) and (6) as
10 paragraphs (8) and (9), respectively; and

11 (4) by inserting after paragraph (4) the fol-
12 lowing:

13 “(5) IN GOOD STANDING.—The term ‘in good
14 standing’ means, with respect to a broker or dealer
15 (as those terms are defined in section 3(a) of the Se-
16 curities Exchange Act of 1934 (15 U.S.C. 78c(a))),
17 that, as of the last day of the most recently com-
18 pleted fiscal year of the broker or dealer, as applica-
19 ble, the broker or dealer—

20 “(A) is registered with the Commission;

21 “(B) is a member of an association that is
22 registered as a national securities association
23 under section 15A of the Securities Exchange
24 Act of 1934 (15 U.S.C. 78o-3);

1 “(C) is compliant with the minimum dollar
2 net capital requirements under section
3 240.15c3–1 of title 17, Code of Federal Regula-
4 tions, or any successor regulation;

5 “(D) has not, during the 10-year period
6 preceding that date, been convicted of a felony
7 under Federal or State law;

8 “(E) does not have a person associated
9 with the broker or dealer, as defined in section
10 3(a) of the Securities Exchange Act of 1934
11 (15 U.S.C. 78c(a)), that, during the 10-year pe-
12 riod preceding that date, has been convicted of
13 a felony for fraudulent conduct under Federal
14 or State law; and

15 “(F) is not subject to statutory disquali-
16 fication by reason of being—

17 “(i) expelled or suspended from—

18 “(I) an association that is reg-
19 istered as described in subparagraph
20 (B); or

21 “(II) an association that is reg-
22 istered as a registered futures associa-
23 tion under section 17 of the Com-
24 modity Exchange Act (7 U.S.C. 21);

1 “(ii) subject to an order of the Com-
2 mission, other appropriate regulatory agen-
3 cy, or foreign financial regulatory authority
4 denying, suspending, or revoking the reg-
5 istration of the broker or dealer as a regu-
6 lated entity;

7 “(iii) subject to an order of the Com-
8 modity Futures Trading Commission, or
9 other appropriate regulatory entity, deny-
10 ing, suspending, or revoking the registra-
11 tion of the broker or dealer under the
12 Commodity Exchange Act (7 U.S.C. 1 et
13 seq.) or the authority of the broker or deal-
14 er to engage in any transaction; or

15 “(iv) subject to a restraining order en-
16 tered by a court.

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

22 “(A) as of the last day of the most recently
23 completed fiscal year of the broker or dealer—

24 “(i) has not less than 1 and not more
25 than 150 persons registered with an asso-

1 ciation that is registered as a national se-
2 curities association under section 15A of
3 the Securities Exchange Act of 1934 (15
4 U.S.C. 78o-3);

5 “(ii) is not a high frequency trading
6 broker or dealer, as that term is defined by
7 the Commission with respect to a par-
8 ticular registered firm type; and

9 “(iii) is not affiliated with an invest-
10 ment advisor that—

11 “(I) is registered with the Com-
12 mission or a State entity; and

13 “(II) acts as the custodian for
14 customer assets;

15 “(B) with respect to the average of the 3
16 most recently completed fiscal years of the
17 broker or dealer, has gross revenue that enables
18 the broker or dealer to qualify as a small busi-
19 ness concern for the purposes of a program ad-
20 ministered by the Small Business Administra-
21 tion; and

22 “(C) throughout the most recently com-
23 pleted fiscal year of the broker or dealer—

24 “(i) does not, as a matter of ordinary
25 business practice in connection with the ac-

1 activities of the broker or dealer, receive cus-
2 tomer checks, drafts, or other evidence of
3 indebtedness made payable to the broker
4 or dealer;

5 “(ii) if required under section 3(a)(2)
6 of the Securities Investor Protection Act of
7 1970 (15 U.S.C. 78ccc(a)(2)), is a member
8 of the Securities Investor Protection Cor-
9 poration; and

10 “(iii) either—

11 “(I) if the broker or dealer is
12 subject to section 240.15c3-3 of title
13 17, Code of Federal Regulations, or
14 any successor regulation, is in compli-
15 ance with that section; or

16 “(II) is not subject to such sec-
17 tion 240.15c3-3, or any successor
18 regulation, because the broker or deal-
19 er does not maintain custody over any
20 customer securities or cash.

21 “(7) PRIVATELY HELD.—The term ‘privately
22 held’ means, with respect to a broker or dealer (as
23 those terms are defined in section 3(a) of the Securi-
24 ties Exchange Act of 1934 (15 U.S.C. 78c(a))), that

1 the broker or dealer, as applicable, is not an
2 issuer.”.

3 (b) AMENDMENTS TO REGULATIONS.—

4 (1) DEFINITIONS.—In this subsection, the
5 terms “in good standing”, “non-custody broker or
6 dealer”, and “privately held” have the meanings
7 given the terms in section 110 of the Sarbanes-Oxley
8 Act of 2002 (15 U.S.C. 7220), as amended by sub-
9 section (a).

10 (2) AMENDMENTS.—Not later than 180 days
11 after the date of enactment of this Act, the Commis-
12 sion shall make any necessary amendments to regu-
13 lations of the Commission that are in effect, as of
14 the date of enactment of this Act, in order to—

15 (A) carry out this Act and the amend-
16 ments made by this Act; and

17 (B) exclude the auditors of non-custody
18 brokers or dealers that are privately held and in
19 good standing from the audit requirements of
20 the Public Company Accounting Oversight
21 Board.

22 (c) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), this Act, and the amendments made by

1 this Act, shall take effect on the date that is 180
2 days after the date of enactment of this Act.

3 (2) EXCEPTION.—Subsection (b) shall take ef-
4 fect on the date of enactment of this Act.

5 **SEC. 302. AMENDMENTS TO ACQUIRED FUND FEES AND EX-**
6 **PENSES REPORTING ON INVESTMENT COM-**
7 **PANY REGISTRATION STATEMENTS.**

8 (a) DEFINITIONS.—In this section:

9 (1) ACQUIRED FUND.—The term “acquired
10 fund” has the meaning given the term in Form N-
11 1A, Form N-2, and Form N-3.

12 (2) ACQUIRED FUND FEES AND EXPENSES.—
13 The term “acquired fund fees and expenses” means
14 the acquired fund fees and expenses subcaption in
15 the fee table disclosure.

16 (3) BUSINESS DEVELOPMENT COMPANY.—The
17 term “business development company” has the
18 meaning given the term in section 2(a) of the Invest-
19 ment Company Act of 1940 (15 U.S.C. 80a-2(a)).

20 (4) FEE TABLE DISCLOSURE.—The term “fee
21 table disclosure” means the fee table described in
22 item 3 of Form N-1A, item 3 of Form N-2, or item
23 4 of Form N-3 (as applicable, and with respect to
24 each, in any successor fee table disclosure that the
25 Securities and Exchange Commission adopts).

1 (5) FORM N-1A.—The term “Form N-1A”
2 means the form described in section 274.11A of title
3 17, Code of Federal Regulations, or any successor
4 regulation.

5 (6) FORM N-2.—The term “Form N-2” means
6 the form described in section 274.11a-1 of title 17,
7 Code of Federal Regulations, or any successor regu-
8 lation.

9 (7) FORM N-3.—The term “Form N-3” means
10 the form described in section 274.11b of title 17,
11 Code of Federal Regulations, or any successor regu-
12 lation.

13 (8) REGISTERED INVESTMENT COMPANY.—The
14 term “registered investment company” means an in-
15 vestment company, as defined in section 3 of the In-
16 vestment Company Act of 1940 (15 U.S.C. 80a-3),
17 registered with the Securities and Exchange Com-
18 mission under that Act.

19 (b) EXCLUDING BUSINESS DEVELOPMENT COMPA-
20 NIES FROM ACQUIRED FUND FEES AND EXPENSES.—A
21 registered investment company may, on any investment
22 company registration statement filed pursuant to section
23 8(b) of the Investment Company Act of 1940 (15 U.S.C.
24 80a-8(b))—

1 (1) omit from the calculation of acquired fund
2 fees and expenses those fees and expenses that the
3 investment company incurred indirectly as a result
4 of investment in shares of 1 or more acquired funds
5 that is a business development company; and

6 (2) instead disclose in a footnote to the fee
7 table disclosure those fees and expenses described in
8 paragraph (1), calculated according to the acquired
9 fund fees and expenses formula.

10 **SEC. 303. EXTENSION OF RULE 701.**

11 (a) IN GENERAL.—

12 (1) DEFINITION.—For purposes of this sub-
13 section, the term “customers”, with respect to an
14 issuer, may, at the election of the issuer, include
15 users of a platform of the issuer.

16 (2) APPLICATION.—The exemption provided
17 under section 230.701 of title 17, Code of Federal
18 Regulations, or any successor regulation, shall apply
19 to individuals (other than employees) providing
20 goods for sale, labor, or services for remuneration to
21 an issuer, or to customers of an issuer, to the same
22 extent as that exemption applies to employees of the
23 issuer.

24 (b) ADJUSTMENT FOR INFLATION.—Section 507 of
25 the Economic Growth, Regulatory Relief, and Consumer

1 Protection Act (15 U.S.C. 77e note) is amended, in the
2 second sentence, by striking “every 5 years” and inserting
3 “annually”.

4 (c) RULEMAKING.—

5 (1) PROPOSED RULES.—Not later than 270
6 days after the date of enactment of this Act, the
7 Commission shall issue proposed revisions to section
8 230.701 of title 17, Code of Federal Regulations, or
9 any successor regulation—

10 (A) to reflect the requirements of this sec-
11 tion; and

12 (B) that do not revise such section
13 230.701 in any manner that would have the ef-
14 fect of restricting access to equity compensation
15 for employees or individuals described in sub-
16 section (a).

17 (2) FINAL RULES.—Not later than 270 days
18 after the date on which the Commission issues the
19 proposed revisions required under paragraph (1), the
20 Commission shall issue a final version of those revi-
21 sions.

1 **SEC. 304. CLOSED-END COMPANY AUTHORITY TO INVEST IN**
2 **PRIVATE FUNDS.**

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

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

8 “(1) IN GENERAL.—The Commission may not
9 limit a closed-end company from investing any or all
10 of the assets of the company in a private fund solely
11 or primarily because of the status of the fund as a
12 private fund.

13 “(2) APPLICATION.—Notwithstanding section
14 6(f), this subsection shall apply to a closed-end com-
15 pany that elects to be treated as a business develop-
16 ment company pursuant to section 54.”.

17 (b) DEFINITION OF PRIVATE FUND.—

18 (1) INVESTMENT COMPANY ACT OF 1940.—Sec-
19 tion 2(a) of the Investment Company Act of 1940
20 (15 U.S.C. 80a-2(a)) is amended by adding at the
21 end the following:

22 “(55) The term ‘private fund’ means an issuer
23 that would be an investment company but for the ex-
24 ception provided for in paragraph (1) or (7) of sec-
25 tion 3(c).”.

1 “(II) includes a closed-end company
2 that elects to be treated as a business de-
3 velopment company under section 6(f) of
4 the Investment Company Act of 1940 (15
5 U.S.C. 80a–6(f)); and

6 “(ii) the term ‘private fund’ has the mean-
7 ing given the term in section 2(a) of the Invest-
8 ment Company Act of 1940 (15 U.S.C. 80a–
9 2(a)).”.

10 (d) INVESTMENT LIMITATION.—Section 3(c) of the
11 Investment Company Act of 1940 (15 U.S.C. 80a–3(e))
12 is amended—

13 (1) in paragraph (1), in the matter preceding
14 subparagraph (A), in the second sentence, by strik-
15 ing “subparagraphs (A)(i) and (B)(i)” and inserting
16 “subparagraphs (A)(i), (B)(i), and (C)”; and

17 (2) in paragraph (7)(D), by striking “subpara-
18 graphs (A)(i) and (B)(i)” and inserting “subpara-
19 graphs (A)(i), (B)(i), and (C)”.

20 **SEC. 305. CROWDFUNDING REVISIONS.**

21 (a) EXEMPTION FROM STATE REGULATION.—Sec-
22 tion 18(b)(4)(A) of the Securities Act of 1933 (15 U.S.C.
23 77r(b)(4)(A)) is amended by striking “pursuant to sec-
24 tion” and all that follows through the semicolon at the
25 end and inserting the following: “pursuant to—

1 “(i) section 13 or 15(d) of the Securi-
2 ties Exchange Act of 1934 (15 U.S.C.
3 78m, 78o(d)); or

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

6 (b) LIABILITY FOR MATERIAL MISSTATEMENTS AND
7 OMISSIONS.—Section 4A(c) of the Securities Act of 1933
8 (15 U.S.C. 77d–1(c)) is amended—

9 (1) by redesignating paragraph (3) as para-
10 graph (4); and

11 (2) by inserting after paragraph (2) the fol-
12 lowing:

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

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

1 “(B) engages in any act, practice, or
2 course of business which operates or would op-
3 erate as a fraud or deceit upon any person.”.

4 (c) APPLICABILITY OF BANK SECRECY ACT RE-
5 QUIREMENTS.—

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

9 (A) in paragraph (11), by striking “and”
10 at the end;

11 (B) in paragraph (12), by striking the pe-
12 riod at the end and inserting “; and”; and

13 (C) by adding at the end the following:

14 “(13) not be subject to the recordkeeping and
15 reporting requirements relating to monetary instru-
16 ments under subchapter II of chapter 53 of title 31,
17 United States Code.”.

18 (2) TITLE 31, UNITED STATES CODE.—Section
19 5312 of title 31, United States Code, is amended by
20 striking subsection (c) and inserting the following:

21 “(c) ADDITIONAL CLARIFICATION.—The term ‘finan-
22 cial institution’ (as defined in subsection (a))—

23 “(1) includes any futures commission merchant,
24 commodity trading advisor, or commodity pool oper-

1 ator registered, or required to register, under the
2 Commodity Exchange Act (7 U.S.C. 1 et seq.); and

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

6 (d) PROVISION OF IMPERSONAL INVESTMENT AD-
7 VICE AND RECOMMENDATIONS.—Section 3(a) of the Secu-
8 rities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amend-
9 ed—

10 (1) by redesignating the second paragraph (80)
11 (relating to funding portals) as paragraph (81); and

12 (2) in paragraph (81)(A), as so redesignated,
13 by inserting after “recommendations” the following:
14 “(other than by providing impersonal investment ad-
15 vice by means of written material, or an oral state-
16 ment, that does not purport to meet the objectives
17 or needs of a specific individual or account)”.

18 **SEC. 306. EQUAL OPPORTUNITY FOR ALL INVESTORS.**

19 (a) CERTIFICATION EXAMINATIONS FOR ACCRED-
20 ITED INVESTORS.—

21 (1) EXAMINATION ALTERNATIVE.—Section
22 2(a)(15) of the Securities Act of 1933 (15 U.S.C.
23 77b(a)(15)) is amended—

24 (A) by redesignating clauses (i) and (ii) as
25 subparagraphs (A) and (B), respectively;

1 (B) in subparagraph (A), as so redesignated,
2 nated, by striking “adviser; or” and inserting
3 “adviser;”;

4 (C) in subparagraph (B), as so redesignated,
5 nated, by striking the period at the end and in-
6 serting “; or”; and

7 (D) by adding at the end the following:

8 “(C) any individual who is certified as an
9 accredited investor through an examination es-
10 tablished or approved by the Commission, the
11 securities commission (or any agency or office
12 performing like functions) of any State, or any
13 self-regulatory organization (as defined in sec-
14 tion 3(a) of the Securities Exchange Act of
15 1934 (15 U.S.C. 78c(a))) that—

16 “(i) measures whether an individual
17 certified as an accredited investor pursuant
18 to such examination understands and ap-
19 preciates the risks and opportunities of in-
20 vesting in securities;

21 “(ii) is designed to ensure that an in-
22 dividual with financial sophistication or
23 training would be unlikely to fail; and

24 “(iii) may be designed or administered
25 by any other person approved by the Com-

1 mission, such securities commission, or
2 such self-regulatory organization.”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by paragraph (1) shall take effect on the date of en-
5 actment of this Act.

6 (3) EXAMINATION.—The Commission shall es-
7 tablish or approve an examination that complies with
8 the amendments made by paragraph (1) not later
9 than 18 months after the date of enactment of this
10 Act.

11 (b) ACCREDITED INVESTOR SELF-CERTIFICATION.—
12 Section 4(b) of the Securities Act of 1933 (15 U.S.C.
13 77d(b)) is amended by inserting “Unless the issuer knows,
14 or has a reckless disregard for whether, the purchaser is
15 not an accredited investor, obtaining a self-certification
16 from the purchaser that the purchaser meets the income
17 or net worth requirements of Rule 501 of Regulation D
18 shall constitute reasonable steps to verify that purchasers
19 of the securities are accredited investors.” after the period
20 at the end.

21 (c) MODIFICATION OF RULES.—

22 (1) IN GENERAL.—Not later than 270 days
23 after the date of enactment of this Act, the Commis-
24 sion shall revise section 230.501(a) of title 17, Code
25 of Federal Regulations, to make parallel changes to

1 those made under subsection (a) and to add to the
2 definition of “accredited investor” the following cat-
3 egories:

4 (A) Any natural person with at least
5 \$500,000 worth of investments.

6 (B) Any natural person with total trans-
7 actions during a 12-month period under section
8 230.506 of title 17, Code of Federal Regula-
9 tions, and under section 4(a)(6) of the Securi-
10 ties Act of 1933 (15 U.S.C. 77d(a)(6)) that are
11 not greater than the highest amount of the fol-
12 lowing—

13 (i) 10 percent of the total investments
14 of the person;

15 (ii) 10 percent of the annual income
16 of the person or 10 percent of the annual
17 combined income with that person’s
18 spouse; or

19 (iii) 10 percent of the net worth of the
20 person excluding the value of the person’s
21 principal place of residence.

22 (2) DEFINITIONS.—

23 (A) DEFINITIONS.—In this paragraph:

1 (i) CASH AND CASH EQUIVALENTS.—

2 The term “cash and cash equivalents” in-
3 cludes—

4 (I) bank deposits, certificates of
5 deposit, bankers acceptances and simi-
6 lar bank instruments held for invest-
7 ment purposes; and

8 (II) the net cash surrender value
9 of an insurance policy.

10 (ii) COMMODITY INTERESTS.—The
11 term “commodity interests” means com-
12 modity futures contracts, options on com-
13 modity futures contracts, and options on
14 physical commodities traded on or subject
15 to the rules of—

16 (I) any contract market des-
17 igned for trading such transactions
18 under the Commodity Exchange Act
19 (7 U.S.C. 1 et seq.) and the rules
20 issued under that Act; or

21 (II) any board of trade or ex-
22 change outside the United States, as
23 described in part 30 of title 17, Code
24 of Federal Regulations.

1 (iii) DIGITAL ASSETS.—The term
2 “digital assets”—

3 (I) means a digital representation
4 of value that—

5 (aa) is used as a medium of
6 exchange, unit of account, or
7 store of value; and

8 (bb) is not legal tender,
9 whether or not denominated in
10 legal tender; and

11 (II) does not include—

12 (aa) a transaction in which
13 a merchant grants, as part of an
14 affinity or rewards program,
15 value that cannot be taken from
16 or exchanged with the merchant
17 for legal tender, bank credit, or
18 virtual currency; or

19 (bb) a digital representation
20 of value issued by or on behalf of
21 a publisher and used solely with-
22 in an online game, game plat-
23 form, or family of games sold by
24 the same publisher or offered on
25 the same game platform.

1 (iv) INVESTMENT PURPOSES.—The
2 term “investment purposes”—

3 (I) includes—

4 (aa) real estate owned by a
5 prospective purchaser who is en-
6 gaged primarily in the business
7 of investing, trading, or devel-
8 oping real estate in connection
9 with such business; and

10 (bb) a commodity interest or
11 physical commodity owned, or a
12 financial contract entered into,
13 by the prospective purchaser who
14 is engaged primarily in the busi-
15 ness of investing, reinvesting, or
16 trading in commodity interests,
17 physical commodities, or financial
18 contracts in connection with such
19 business; and

20 (II) does not include real estate
21 held for investment purposes by a pro-
22 spective purchaser if the real estate is
23 used by the prospective purchaser, a
24 sibling, spouse or former spouse, a di-
25 rect lineal descendant by birth or

1 adoption, or spouse of such lineal de-
2 scendant or ancestor for personal pur-
3 poses or as a place of business, or in
4 connection with the conduct of the
5 trade or business of the prospective
6 purchaser or such related person.

7 (v) INVESTMENTS.—The term “in-
8 vestments” means—

9 (I) securities, as defined in sec-
10 tion 2(a) of the Securities Act of 1933
11 (15 U.S.C. 77b(a)), other than securi-
12 ties issued by an issuer that is con-
13 trolled by the prospective purchaser
14 that owns such securities;

15 (II) real estate held for invest-
16 ment purposes;

17 (III) commodity interests held for
18 investment purposes;

19 (IV) physical commodities held
20 for investment purposes;

21 (V) digital assets held for invest-
22 ment purposes;

23 (VI) to the extent not securities,
24 financial contracts (as such term is
25 defined in section 3(c)(2)(B)(ii) of the

1 Investment Company Act of 1940 (15
2 U.S.C. 80a-3(c)(2)(B)(ii)) entered
3 into for investment purposes; and

4 (VII) cash and cash equivalents
5 (including foreign currencies) held for
6 investment purposes.

7 (vi) PERSONAL PURPOSES.—The term
8 “personal purposes” does not include resi-
9 dential real estate if deductions with re-
10 spect to such real estate are not disallowed
11 by section 280A of the Internal Revenue
12 Code of 1986.

13 (vii) PHYSICAL COMMODITIES.—The
14 term “physical commodities” means any
15 physical commodity with respect to which a
16 commodity interest is traded on a market
17 described in clause (ii)(I).

18 (3) SELF-EXECUTION.—If the Commission does
19 not revise its rules in accordance with the deadline
20 set forth in paragraph (1), any person described in
21 subparagraph (A) or (B) of that paragraph shall be
22 deemed to be an accredited investor for all purposes
23 under the Federal securities laws (including regula-
24 tions).

1 (d) ADJUSTING THE ACCREDITED INVESTOR STAND-
2 ARD.—Section 413 of the Private Fund Investment Advis-
3 ers Registration Act of 2010 (15 U.S.C. 77b note) is
4 amended by striking subsection (b) and inserting the fol-
5 lowing:

6 “(b) REVIEW AND ADJUSTMENT.—

7 “(1) IN GENERAL.—The Commission may un-
8 dertake a review of the definition of the term ‘ac-
9 credited investor’, as such term applies to natural
10 persons, to determine whether the requirements of
11 the definition, excluding the requirement relating to
12 the net worth standard described in subsection (a),
13 should be adjusted or modified for the protection of
14 investors, in the public interest, and in light of the
15 economy.

16 “(2) ADJUSTMENT OR MODIFICATION.—Upon
17 completion of a review under paragraph (1), the
18 Commission may, by notice and comment rule-
19 making, make such adjustments to the definition of
20 the term ‘accredited investor’, excluding adjusting or
21 modifying the requirement relating to the net worth
22 standard described in subsection (a), as such term
23 applies to natural persons, as the Commission may
24 deem appropriate for the protection of investors, in
25 the public interest, and in light of the economy.”.

1 **SEC. 307. EXEMPTION FROM STATE REGULATION OF SECURITIES.**
2

3 Section 18(b)(4)(A) of the Securities Act of 1933 (15
4 U.S.C. 77r(b)(4)(A)), as amended by section 305(a), is
5 amended—

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

7 (2) in clause (ii), by adding “or” at the end;

8 and

9 (3) by adding at the end the following:

10 “(iii) all disclosure obligations of sec-
11 tion 3(b)(2) of this Act and any regula-
12 tions issued under that section;”.

13 **SEC. 308. RETIREMENT SAVINGS MODERNIZATION.**

14 (a) FINDINGS.—Congress finds the following:

15 (1) According to the Department of Labor, be-
16 tween 1975 and 2019, the number of participants in
17 private-sector defined benefit plans declined from
18 27,200,000 active participants to 12,600,000 active
19 participants.

20 (2) During the same period, the number of par-
21 ticipants in private-sector defined contribution plans
22 increased from 11,200,000 active participants to
23 85,500,000 active participants.

24 (3) Workers in the United States are increas-
25 ingly relying on employer-sponsored defined con-
26 tribution plans as retirement savings vehicles.

1 (4) The transition from defined benefit plans to
2 defined contribution plans has not only impacted de-
3 fined contribution plan savers by shifting investment
4 responsibility from the investment professionals and
5 plan sponsors to plan participants, but it has also
6 limited the asset classes they use to generate invest-
7 ment returns needed for a secure retirement.

8 (5) Defined contribution plans often lag behind
9 defined benefit plans in terms of investment per-
10 formance, in part due to the fact that defined ben-
11 efit plans are often better diversified through expo-
12 sure to alternative assets.

13 (6) A 2018 study from the Boston College Cen-
14 ter for Retirement Research found that, for defined
15 benefit plans that invest in private equity, those
16 plans hold an average of 19 percent of their assets
17 in private market investments.

18 (7) In 2019, the value of private companies in
19 the United States was 250 percent greater than the
20 value of public companies.

21 (8) In 2020, private equity had the highest re-
22 turn of any asset class in the public pension port-
23 folio, with a median annualized return of 12.3 per-
24 cent over 10 years.

1 (9) Numerous studies have found that the di-
2 versification of defined contribution plans through
3 exposure to alternative asset classes would increase
4 annual returns upon retirement even in worst-case
5 market scenarios.

6 (10) A 2018 study from the Georgetown Uni-
7 versity Center for Retirement Initiatives found that
8 the strategic inclusion of alternative assets in a di-
9 versified target-date fund would increase a partici-
10 pant’s annual retirement income by 17 percent in an
11 average scenario, and 11 percent in a worst-case,
12 down-market scenario.

13 (11) The Employee Retirement Income Security
14 Act of 1974 (29 U.S.C. 1001 et seq.) and associated
15 jurisprudence requires plan fiduciaries to act solely
16 in the pecuniary interest of plan participants, includ-
17 ing by “diversifying the investments of the plan so
18 as to minimize the risk of large losses”.

19 (12) The prudent and well-diversified allocation
20 to alternative assets in defined contribution plans
21 can level the playing field between defined contribu-
22 tion and defined benefit plans, reduce the exposure
23 of retirement savers to volatility in public markets,
24 and generate investment returns needed for a secure
25 retirement.

1 (b) FIDUCIARY DUTIES REGARDING ASSET CLASSES
2 UNDER ERISA.—Section 404(a) of the Employee Retirement
3 Income Security Act of 1974 (29 U.S.C. 1104(a))
4 is amended by adding at the end the following:

5 “(3)(A) The selection or maintenance by a fidu-
6 ciary of a multi-asset class investment vehicle as a
7 designated investment alternative for a plan shall
8 not, by itself, constitute a breach of fiduciary duties
9 under this subsection. Any fees or expenses associ-
10 ated with that vehicle, including with any covered in-
11 vestment in which the vehicle is invested, shall not,
12 by itself, constitute a breach of such fiduciary du-
13 ties, provided that the fiduciary has given appro-
14 priate consideration to those facts and circumstances
15 that, given the scope of the fiduciary’s investment
16 duties, the fiduciary knows or should know are rel-
17 evant to that vehicle or that covered investment con-
18 tained as a component of that vehicle.

19 “(B) For purposes of subparagraph (A):

20 “(i) The term ‘covered investment’ includes
21 an investment in any of the following:

22 “(I) Securities that are listed on a na-
23 tional securities exchange.

24 “(II) Debt.

25 “(III) Infrastructure.

1 “(IV) Digital assets.

2 “(V) Real estate.

3 “(VI) Real assets.

4 “(VII) Private equity.

5 “(VIII) Commodities.

6 “(IX) Any other investment that
7 would have the effect of diversifying the in-
8 vestment portfolio.

9 “(ii) The terms ‘exchange’ and ‘security’
10 have the meanings given the terms in section
11 3(a) of the Securities Exchange Act of 1934
12 (15 U.S.C. 78c(a)).

13 “(iii) The term ‘multi-asset class invest-
14 ment vehicle’ means any investment structure,
15 whether a commingled vehicle or a specific ac-
16 count, that invests in assets from a range of
17 asset classes with different risk and return
18 characteristics or investment horizons, including
19 by investing in covered investments.

20 “(iv) The term ‘national securities ex-
21 change’ means an exchange registered as a na-
22 tional securities exchange pursuant to section 6
23 of the Securities Exchange Act of 1934 (15
24 U.S.C. 78f).

1 “(C) Nothing in this paragraph shall be con-
2 strued as providing an exemption or safe harbor
3 from the requirements of paragraph (1).”.

4 **TITLE IV—IMPROVING** 5 **REGULATORY OVERSIGHT**

6 **SEC. 401. STUDIES, REPORTS, AND RULES REGARDING** 7 **SMALL ENTITIES.**

8 (a) DEFINITIONS.—In this section—

9 (1) the term “Committee” means the Small
10 Business Capital Formation Advisory Committee es-
11 tablished under section 40 of the Securities Ex-
12 change Act of 1934 (15 U.S.C. 78qq);

13 (2) the term “Office” means the Office of the
14 Advocate for Small Business Capital Formation es-
15 tablished under section 4(j) of the Securities Ex-
16 change Act of 1934 (15 U.S.C. 78d(j)); and

17 (3) the term “small entity”—

18 (A) has the meaning given the term in sec-
19 tion 601 of title 5, United States Code, with re-
20 spect to the activities of the Commission; and

21 (B) includes any definition established by
22 the Commission of the term “small business”,
23 “small organization”, or “small governmental
24 jurisdiction” under paragraph (3), (4), or (5),
25 respectively, of section 601 of title 5, United

1 States Code, with respect to the activities of the
2 Commission.

3 (b) STUDIES AND REPORTS.—Not later than 1 year
4 after the date of enactment of this Act, and once every
5 5 years thereafter, the Commission shall—

6 (1) in consultation with the Committee, the Of-
7 fice, and the Office of Advocacy of the Small Busi-
8 ness Administration, conduct a study of the defini-
9 tion of the term “small entity” with respect to the
10 activities of the Commission for the purposes of
11 chapter 6 of title 5, United States Code, which shall
12 consider—

13 (A) the extent to which the definition of
14 the term “small entity”, as in effect during the
15 period in which the study is conducted, aligns
16 with the findings and declarations made under
17 section 2(a) of the Regulatory Flexibility Act (5
18 U.S.C. 601 note);

19 (B) the amount by which financial markets
20 in the United States have grown since the last
21 time the Commission amended the definition of
22 the term “small entity”, if applicable; and

23 (C) how the Commission should define the
24 term “small entity” to ensure that a meaningful

1 number of entities would fall under that defini-
2 tion; and

3 (2) submit to Congress a report that includes—

4 (A) the results of the applicable study con-
5 ducted under paragraph (1); and

6 (B) specific and detailed recommendations
7 on the ways in which the Commission could
8 amend the definition of the term “small entity”
9 to be consistent with the results described in
10 subparagraph (A).

11 (c) RULEMAKING.—

12 (1) PROPOSED RULES.—Not later than 270
13 days after the date on which the Commission sub-
14 mits to Congress a report required under subsection
15 (b)(2), the Commission shall issue a proposed rule
16 that implements the recommendations described in
17 subsection (b)(2)(B).

18 (2) FINAL RULES.—Not later than 270 days
19 after the date on which the Commission publishes a
20 proposed rule under paragraph (1) in the Federal
21 Register, the Commission shall issue a final version
22 of that rule.

1 **SEC. 402. INCREASING OPPORTUNITIES FOR RETAIL INVES-**
2 **TORS.**

3 (a) **REGULATORY DOLLAR THRESHOLDS AND LIM-**
4 **TATIONS.**—Notwithstanding any other provision of law or
5 regulation, the Commission, in order to reduce any regu-
6 latory obligation (or any restriction) on any entity, may,
7 as the Commission determines appropriate, increase any
8 dollar threshold or limitation by rule of the Commission,
9 including any dollar threshold or limitation under—

10 (1) section 230.251(a)(1) of title 17, Code of
11 Federal Regulations, or any successor regulation;

12 (2) section 230.251(a)(2) of title 17, Code of
13 Federal Regulations, or any successor regulation;

14 (3) section 230.504 of title 17, Code of Federal
15 Regulations, or any successor regulation;

16 (4) section 227.100(a)(1) of title 17, Code of
17 Federal Regulations, or any successor regulation;

18 (5) section 229.10(f) of title 17, Code of Fed-
19 eral Regulations, or any successor regulation;

20 (6) section 230.405 of title 17, Code of Federal
21 Regulations, or any successor regulation; or

22 (7) section 240.12b–2 of title 17, Code of Fed-
23 eral Regulations, or any successor regulation.

24 (b) **JOBS ACT-RELATED EXEMPTION.**—Section 3(b)
25 of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amend-
26 ed—

1 (1) in paragraph (2)(A), by striking
2 “\$50,000,000” and inserting “\$75,000,000, ad-
3 justed for inflation by the Commission every 2 years
4 to the nearest \$10,000 to reflect the change in the
5 Consumer Price Index for All Urban Consumers
6 published by the Bureau of Labor Statistics”; and

7 (2) in paragraph (5)—

8 (A) in the first sentence, by striking “such
9 amount as” and inserting the following: “such
10 amount, as adjusted for inflation under para-
11 graph (2)(A), as”; and

12 (B) in the second sentence, by striking
13 “such amount” and inserting the following:
14 “such amount, as adjusted for inflation under
15 paragraph (2)(A)”.

16 (c) CROWDFUNDING EXEMPTION.—

17 (1) INCREASE IN LIMIT OF AMOUNT SOLD IN
18 RELIANCE ON THE CROWDFUNDING EXEMPTION.—
19 Section 4(a)(6)(A) of the Securities Act of 1933 (15
20 U.S.C. 77d(a)(6)(A)) is amended by striking
21 “\$1,000,000” and inserting “\$5,000,000”.

22 (2) CLARIFICATION OF TRANSACTION CAPS.—
23 Section 4(a)(6)(B) of the Securities Act of 1933 (15
24 U.S.C. 77d(a)(6)(B)) is amended—

1 (A) in clause (i), by inserting “the greater
2 of” after “5 percent of”; and

3 (B) in clause (ii), by inserting “the greater
4 of” after “10 percent of”.

5 **SEC. 403. TRACKING BAD ACTORS.**

6 (a) DEFINITION.—In this section, the term “Federal
7 financial regulator” means—

8 (1) the Commodity Futures Trading Commis-
9 sion;

10 (2) the Commission;

11 (3) the Office of the Comptroller of the Cur-
12 rency;

13 (4) the Federal Deposit Insurance Corporation;

14 (5) the Financial Industry Regulatory Agency;

15 and

16 (6) the Public Company Accounting Oversight
17 Board.

18 (b) DATABASE.—

19 (1) IN GENERAL.—Not later than 3 years after
20 the date of enactment of this Act, the Federal finan-
21 cial regulators shall jointly establish a publicly avail-
22 able database of persons convicted or held liable in
23 criminal, civil, and administrative actions relating to
24 financial services brought by—

1 (A) any Federal financial regulator, to the
2 greatest extent practicable;

3 (B) the Department of Justice;

4 (C) any self-regulatory organization or
5 similar entity overseen by a Federal financial
6 regulator if required by such regulator; or

7 (D) any State or local criminal or regu-
8 latory agency that voluntarily submits informa-
9 tion to the database.

10 (2) OVERSIGHT.—The Commission shall be the
11 lead agency responsible for oversight of the database
12 established under paragraph (1).

13 (3) FREE ACCESS.—The information in the
14 database established under paragraph (1) shall be
15 free of charge to the public.

16 (4) OPERATION.—The database established
17 under paragraph (1) shall be operated by a Federal
18 agency or maintained by a third party.

19 (5) EXPUNGEMENT.—Any agency that submits
20 information to the database established under para-
21 graph (1) shall expunge any enforcement action
22 brought by the agency if the action is—

23 (A) overturned upon judicial review; or

24 (B) withdrawn by the agency.

25 (6) REPORTS.—

1 (A) FEDERAL FINANCIAL REGULATORS.—

2 The Federal financial regulators shall jointly
3 submit to Congress an annual report on the
4 database during the period beginning on the
5 date of enactment of this Act and ending on the
6 date on which the database is operational.

7 (B) GAO REPORT.—Not later than 5 years
8 after the date on which the database is oper-
9 ational, the Comptroller General of the United
10 States shall submit to Congress a report on the
11 database.

12 **SEC. 404. PERSONALLY IDENTIFIABLE INFORMATION EX-**
13 **CLUDED FROM CONSOLIDATED AUDIT TRAIL**
14 **REPORTING REQUIREMENTS.**

15 (a) DEFINITION.—In this section, the term “person-
16 ally identifiable information”—

17 (1) means information that can be used to dis-
18 tinguish or trace the identity of an individual, either
19 alone or when combined with other personal or iden-
20 tifying information that is linked or linkable to the
21 individual;

22 (2) includes the name, address, date or year of
23 birth, Social Security number, telephone number,
24 and email address of an individual; and

1 (3) does not include a CAT-Order-ID or CAT-
2 Reporter-ID, as those terms are defined in section
3 242.613(j) of title 17, Code of Federal Regulations,
4 or any successor regulation.

5 (b) PROHIBITION.—Except as provided in subsection
6 (c), the Commission may not require a national securities
7 exchange, a national securities association, or a member
8 of such an exchange or association to provide personally
9 identifiable information with respect to a market partici-
10 pant to meet the requirements relating to an order or a
11 reportable event under section 242.613(c)(7) of title 17,
12 Code of Federal Regulations, or any successor regulation.

13 (c) EXCEPTION.—The Commission may only require
14 a national securities exchange, a national securities asso-
15 ciation, or a member of such an exchange or association
16 to provide personally identifiable information with respect
17 to a market participant if the Commission makes a re-
18 quest for such information.

19 (d) REQUEST FOR EXTENSION.—If the Commission
20 makes a request under subsection (c), a national securities
21 exchange, a national securities association, or a member
22 of such an exchange or association shall provide the per-
23 sonally identifiable information that is the subject of the
24 request not later than 24 hours after receiving the request,
25 unless, at the request of the national securities exchange,

1 national securities association, or member of such an ex-
2 change or association, the Commission provides a reason-
3 able extension.

4 (e) **DESTRUCTION OF PERSONALLY IDENTIFIABLE**
5 **INFORMATION.**—In the case of personally identifiable in-
6 formation provided to the Commission under a request
7 made by the Commission under subsection (c), the Com-
8 mission shall destroy that personally identifiable informa-
9 tion not later than 1 day after the date on which the inves-
10 tigation or other matter for which that personally identifi-
11 able information is required concludes.

12 **SEC. 405. REMOVAL OF ADMINISTRATIVE PROCEEDINGS.**

13 The Securities Exchange Act of 1934 (15 U.S.C. 78a
14 et seq.) is amended by inserting after section 27A (15
15 U.S.C. 78aa–1) the following:

16 **“SEC. 27B. REMOVAL OF ADMINISTRATIVE PROCEEDINGS.**

17 “(a) **DEFINITION.**—In this section, the term ‘eligible
18 respondent’ means any respondent that does not act, or,
19 at the time of the alleged misconduct, did not act, as a
20 registered broker or dealer, registered investment adviser,
21 registered investment company, registered municipal secu-
22 rities dealer, registered nationally recognized statistical
23 rating organization, registered government securities
24 broker, registered government securities dealer, registered
25 public accounting firm, or registered transfer agent.

1 “(b) REMOVAL.—Any administrative proceeding
2 brought by the Commission under this Act may be re-
3 moved by an eligible respondent to a district court of the
4 United States in accordance with section 1446 of title 28,
5 United States Code.”.

6 **SEC. 406. PARITY FOR REGISTERED INDEX-LINKED ANNU-**
7 **ITIES REGARDING REGISTRATION RULES.**

8 (a) DEFINITIONS.—In this section:

9 (1) INVESTMENT COMPANY.—The term “invest-
10 ment company” has the meaning given the term in
11 section 3 of the Investment Company Act of 1940
12 (15 U.S.C. 80a–3).

13 (2) MARKET VALUE ADJUSTMENT.—The term
14 “market value adjustment” means, with respect to a
15 registered index-linked annuity—

16 (A) an adjustment to the value of that an-
17 nuity based on calculations using a predeter-
18 mined formula; or

19 (B) a change in interest rates (or other
20 factor, as determined by the Commission) that
21 applies to that annuity after an early with-
22 drawal or contract discontinuance.

23 (3) PURCHASER.—The term “purchaser”
24 means a purchaser of a registered index-linked an-
25 nuity.

1 (4) REGISTERED INDEX-LINKED ANNUITY.—

2 The term “registered index-linked annuity” means
3 an annuity—

4 (A) that is deemed to be a security;

5 (B) that is required to be registered with
6 the Commission;

7 (C) that is issued by an insurance com-
8 pany that is subject to the supervision of the in-
9 surance commissioner of the applicable State;

10 (D) that is not issued by an investment
11 company; and

12 (E) the returns of which—

13 (i) are based on the performance of a
14 specified benchmark index or rate; and

15 (ii) may be subject to a market value
16 adjustment if amounts are withdrawn be-
17 fore the end of the period during which
18 that market value adjustment applies.

19 (5) SECURITY.—The term “security” has the
20 meaning given the term in section 2(a) of the Secu-
21 rities Act of 1933 (15 U.S.C. 77b(a)).

22 (b) RULES.—

23 (1) IN GENERAL.—Not later than 180 days
24 after the date of enactment of this Act, the Commis-
25 sion shall propose, and, not later than 18 months

1 after the date of enactment of this Act, the Commis-
2 sion shall prepare and finalize, new or amended
3 rules, as appropriate, to establish a new form in ac-
4 cordance with paragraph (2) on which an issuer of
5 a registered index-linked annuity may register that
6 registered index-linked annuity, subject to conditions
7 the Commission determines appropriate.

8 (2) DESIGN OF FORM.—In developing the form
9 to be established under paragraph (1), the Commis-
10 sion shall—

11 (A) design the form to ensure that a pur-
12 chaser using the form receives the information
13 necessary to make knowledgeable decisions, tak-
14 ing into account—

15 (i) the availability of information;

16 (ii) the knowledge and sophistication
17 of that class of purchasers;

18 (iii) the complexity of the registered
19 index-linked annuity; and

20 (iv) any other factor the Commission
21 determines appropriate;

22 (B) engage in investor testing; and

23 (C) incorporate the results of the testing
24 required under subparagraph (B) in the design
25 of the form, with the goal of ensuring that key

1 information is conveyed in terms that a pur-
2 chaser is able to understand.

3 (c) TREATMENT IF RULES NOT PREPARED AND FI-
4 NALIZED IN A TIMELY MANNER.—

5 (1) IN GENERAL.—If, as of the date that is 18
6 months after the date of enactment of this Act, the
7 Commission has failed to prepare and finalize the
8 rules required under subsection (b)(1), any reg-
9 istered index-linked annuity may be registered on
10 the form described in section 239.17b of title 17,
11 Code of Federal Regulations, or any successor regu-
12 lation.

13 (2) PREPARATION.—A registration described in
14 paragraph (1) shall be prepared pursuant to applica-
15 ble provisions of the form described in that para-
16 graph.

17 (d) RULES OF CONSTRUCTION.—Nothing in this sec-
18 tion may be construed to—

19 (1) limit the authority of the Commission to de-
20 termine the information to be requested in the form
21 described in subsection (b); or

22 (2) preempt any State law, regulation, rule, or
23 order.

1 **SEC. 407. STRESS TEST RELIEF FOR NONBANKS.**

2 Section 165(i)(2) of the Financial Stability Act of
3 2010 (12 U.S.C. 5365(i)(2)) is amended—

4 (1) in subparagraph (A), in the second sen-
5 tence, by striking “are regulated by a primary Fed-
6 eral financial regulatory agency” and inserting the
7 following: “the primary financial regulatory agency
8 with respect to which is a Federal banking agency
9 or the Federal Housing Finance Agency”;

10 (2) in subparagraph (C), in the matter pre-
11 ceding clause (i), by striking “Each Federal primary
12 financial regulatory agency” and inserting “Each
13 Federal banking agency and the Federal Housing
14 Finance Agency”; and

15 (3) by adding at the end the following:

16 “(D) SEC AND CFTC.—The Securities and
17 Exchange Commission and the Commodity Fu-
18 tures Trading Commission may each issue regu-
19 lations requiring financial companies with re-
20 spect to which the applicable agency is the pri-
21 mary financial regulatory agency to conduct
22 periodic analyses of the financial condition, in-
23 cluding available liquidity, of those companies
24 under adverse economic conditions.”.