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September 1, 2016

Honorable Member  
United States House of Representatives

***RE: Oppose bills before the House regarding securities laws***

Dear Honorable Member,

On behalf of more than 400,000 members and supporters of Public Citizen, we urge you to oppose the bills sent from the House Committee on Financial Services that are likely to be voted on during the week of September 6.

Generally, each of these bills serves to reduce investor protections. On the surface, proponents claim that the reductions will lower the cost of capital, and therein, help grow a jobs-producing economy. In fact, reducing protections adds investor risk, which will simply drive up the cost of capital, and reduce jobs. The costs saved in reduced reporting will be more than offset by costs of a declining economy.

We urge a NO vote on each of the following bills:

***HR 2357, the Accelerating Access to Capital Act of 2015 (Wagner)***

This bill allows smaller companies the ability to use Form S-3 on the grounds that it reduces reporting costs. Form S-3 is designed for seasoned issuers well known by the market, covered by analysts and journalists, whose securities are traded widely. That is, scrutiny of the company comes by way of the marketplace. As such, the form is extremely brief and largely a document that declares that the firm already is exposed to the market with traded securities.<sup>1</sup> This bill lets small companies, largely unknown in the market, not covered by analysts and journalists, to sell securities with minimal disclosure of their operations. Committee Ranking Member Rep. Maxine Waters (D-Calif) noted the bill "invites potential disaster and investor confusion." Far from reducing the cost of capital by saving the small expense of publishing financial statements of the young company, investors will demand higher returns given the risk imbedded in non-disclosure. That is, an investor asked to risk money on a company unwilling to disclose its full financial condition will undoubtedly ask for high returns, either in the form of a high dividend or high interest rate.

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<sup>1</sup> Form S-3 can be found here: <https://www.sec.gov/about/forms/forms-3.pdf>

This bill also exempts certain securities from Securities and Exchange Commission (SEC) and state registration requirements. The bill provides that the securities can be sold with essentially no state or federal oversight provided that the aggregate amount of all securities sold by the issuer (including any amount sold in reliance upon the exemption) during the 12-month period preceding the transaction does not exceed \$500,000.

We take this to mean that issuers may actually sell worthless or overpriced securities, provided the harm is contained to a half million dollars. We oppose this. While it may make sense to allow an entrepreneur to raise funds from willing family and friends, use of a tradeable security could mean this family member simply sells to an outsider, arguably without even knowing that the entrepreneur's true results are disappointing. This provision was previously known as H.R. 4850, the Micro Offering Safe Harbor Act (Emmer)

Finally, this bill prevents the SEC from adopting proposed additional obligations relating to exemptions from registration requirements for certain sales of securities under Regulation D. We believe the SEC already falls short in investor protection, and preventing them from trying to do better sends a deflating message. This provision was previously known as H.R. 4852, the Private Placement Improvement Act of 2016 (Garrett)

***H.R. 5424 Investment Advisors Modernization Act (Hurt/Vargas)***

This bill allows investment advisors to escape current safeguards designed to reduce inflated sales pitches or obfuscation of investment risks. Specifically, investment advisors need to make sure that potential private equity investors have basic sales documents such as the company prospectus before consummating a sale. Investors in private funds should be accorded ample information... The bill also frustrates efforts by investors to gain access to company records in a so-called books-and-records requests.

With questions, please contact Bartlett Naylor at [bnaylor@citizen.org](mailto:bnaylor@citizen.org), or 202.580.5626

Sincerely,

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