

Union Calendar No.

114TH CONGRESS
1ST SESSION

H. R. 1839

[Report No. 114-]

To amend the Securities Act of 1933 to exempt certain transactions involving purchases by accredited investors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2015

Mr. MCHENRY introduced the following bill; which was referred to the Committee on Financial Services

SEPTEMBER --, 2015

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on April 16, 2015]

A BILL

To amend the Securities Act of 1933 to exempt certain transactions involving purchases by accredited investors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Reforming Access for*
5 *Investments in Startup Enterprises Act of 2015” or the*
6 *“RAISE Act of 2015”.*

7 **SEC. 2. EXEMPTED TRANSACTIONS.**

8 *(a) EXEMPTED TRANSACTIONS.—Section 4 of the Se-*
9 *curities Act of 1933 (15 U.S.C. 77d) is amended—*

10 *(1) in subsection (a), by adding at the end the*
11 *following new paragraph:*

12 *“(7) transactions meeting the requirements of*
13 *subsection (d).”;*

14 *(2) by redesignating the second subsection (b)*
15 *(relating to securities offered and sold in compliance*
16 *with Rule 506 of Regulation D) as subsection (c); and*

17 *(3) by adding at the end the following:*

18 *“(d) CERTAIN ACCREDITED INVESTOR TRANS-*
19 *ACTIONS.—The transactions referred to in subsection (a)(7)*
20 *are transactions meeting the following requirements:*

21 *“(1) ACCREDITED INVESTOR REQUIREMENT.—*
22 *Each purchaser is an accredited investor, as that*
23 *term is defined in section 230.501(a) of title 17, Code*
24 *of Federal Regulations (or any successor regulation).*

1 “(2) *PROHIBITION ON GENERAL SOLICITATION*
2 *OR ADVERTISING.*—Neither the seller, nor any person
3 acting on the seller’s behalf, offers or sells securities by
4 any form of general solicitation or general adver-
5 tising.

6 “(3) *INFORMATION REQUIREMENT.*—In the case
7 of a transaction involving the securities of an issuer
8 that is neither subject to section 13 or 15(d) of the Se-
9 curities Exchange Act of 1934 (15 U.S.C. 78m;
10 78o(d)), nor exempt from reporting pursuant to sec-
11 tion 240.12g3-2(b) of title 17, Code of Federal Regula-
12 tions, nor a foreign government (as defined in section
13 230.405 of title 17, Code of Federal Regulations) eligi-
14 ble to register securities under Schedule B, the seller
15 and a prospective purchaser designated by the seller
16 obtain from the issuer, upon request of the seller, and
17 the seller in all cases makes available to a prospective
18 purchaser, the following information (which shall be
19 reasonably current in relation to the date of resale
20 under this section):

21 “(A) The exact name of the issuer and the
22 issuer’s predecessor (if any).

23 “(B) The address of the issuer’s principal
24 executive offices.

1 “(C) *The exact title and class of the secu-*
2 *rity.*

3 “(D) *The par or stated value of the security.*

4 “(E) *The number of shares or total amount*
5 *of the securities outstanding as of the end of the*
6 *issuer’s most recent fiscal year.*

7 “(F) *The name and address of the transfer*
8 *agent, corporate secretary, or other person re-*
9 *sponsible for transferring shares and stock cer-*
10 *tificates.*

11 “(G) *A statement of the nature of the busi-*
12 *ness of the issuer and the products and services*
13 *it offers, which shall be presumed reasonably cur-*
14 *rent if the statement is as of 12 months before*
15 *the transaction date.*

16 “(H) *The names of the officers and directors*
17 *of the issuer.*

18 “(I) *The names of any persons registered as*
19 *a broker, dealer, or agent that shall be paid or*
20 *given, directly or indirectly, any commission or*
21 *remuneration for such person’s participation in*
22 *the offer or sale of the securities.*

23 “(J) *The issuer’s most recent balance sheet*
24 *and profit and loss statement and similar finan-*
25 *cial statements, which shall—*

1 “(i) be for such part of the two pre-
2 ceding fiscal years as the issuer has been in
3 operation;

4 “(ii) be prepared in accordance with
5 generally accepted accounting principles or,
6 in the case of a foreign private issuer, be
7 prepared in accordance with generally ac-
8 cepted accounting principles or the Inter-
9 national Financial Reporting Standards
10 issued by the International Accounting
11 Standards Board;

12 “(iii) be presumed reasonably current
13 if—

14 “(I) with respect to the balance
15 sheet, the balance sheet is as of a date
16 less than 16 months before the trans-
17 action date; and

18 “(II) with respect to the profit
19 and loss statement, such statement is
20 for the 12 months preceding the date of
21 the issuer’s balance sheet; and

22 “(iv) if the balance sheet is not as of
23 a date less than 6 months before the trans-
24 action date, be accompanied by additional
25 statements of profit and loss for the period

1 *from the date of such balance sheet to a date*
2 *less than 6 months before the transaction*
3 *date.*

4 “(K) *To the extent that the seller is a con-*
5 *trol person with respect to the issuer, a brief*
6 *statement regarding the nature of the affiliation,*
7 *and a statement certified by such seller that they*
8 *have no reasonable grounds to believe that the*
9 *issuer is in violation of the securities laws or*
10 *regulations.*

11 “(4) *ISSUERS DISQUALIFIED.—The transaction*
12 *is not for the sale of a security where the seller is an*
13 *issuer or a subsidiary, either directly or indirectly, of*
14 *the issuer.*

15 “(5) *BAD ACTOR PROHIBITION.—Neither the sell-*
16 *er, nor any person that has been or will be paid (di-*
17 *rectly or indirectly) remuneration or a commission*
18 *for their participation in the offer or sale of the secu-*
19 *rities, including solicitation of purchasers for the sell-*
20 *er is subject to an event that would disqualify an*
21 *issuer or other covered person under Rule 506(d)(1)*
22 *of Regulation D (17 C.F.R. 230.506(d)(1)) or is sub-*
23 *ject to a statutory disqualification described under*
24 *section 3(a)(39) of the Securities Exchange Act of*
25 *1934.*

1 “(6) *BUSINESS REQUIREMENT.*—*The issuer is*
2 *engaged in business, is not in the organizational stage*
3 *or in bankruptcy or receivership, and is not a blank*
4 *check, blind pool, or shell company that has no spe-*
5 *cific business plan or purpose or has indicated that*
6 *the issuer’s primary business plan is to engage in a*
7 *merger or combination of the business with, or an ac-*
8 *quisition of, an unidentified person.*

9 “(7) *UNDERWRITER PROHIBITION.*—*The trans-*
10 *action is not with respect to a security that con-*
11 *stitutes the whole or part of an unsold allotment to,*
12 *or a subscription or participation by, a broker or*
13 *dealer as an underwriter of the security or a redis-*
14 *tribution.*

15 “(8) *OUTSTANDING CLASS REQUIREMENT.*—*The*
16 *transaction is with respect to a security of a class*
17 *that has been authorized and outstanding for at least*
18 *90 days prior to the date of the transaction.*

19 “(e) *ADDITIONAL REQUIREMENTS.*—

20 “(1) *IN GENERAL.*—*With respect to an exempted*
21 *transaction described under subsection (a)(7):*

22 “(A) *Securities acquired in such trans-*
23 *action shall be deemed to have been acquired in*
24 *a transaction not involving any public offering.*

1 “(B) Such transaction shall be deemed not
2 to be a distribution for purposes of section
3 2(a)(11).

4 “(C) Securities involved in such transaction
5 shall be deemed to be restricted securities within
6 the meaning of Rule 144 (17 C.F.R. 230.144).

7 “(2) *RULE OF CONSTRUCTION.*—The exemption
8 provided by subsection (a)(7) shall not be the exclu-
9 sive means for establishing an exemption from the
10 registration requirements of section 5.”.

11 (b) *EXEMPTION IN CONNECTION WITH CERTAIN EX-*
12 *EMPT OFFERINGS.*—Section 18(b)(4) of the Securities Act
13 of 1933 (15 U.S.C. 77r(b)(4)) is amended—

14 (1) by redesignating the second subparagraph
15 (D) and subparagraph (E) as subparagraphs (E) and
16 (F), respectively;

17 (2) in subparagraph (E), as so redesignated, by
18 striking “; or” and inserting a semicolon;

19 (3) in subparagraph (F), as so redesignated, by
20 striking the period and inserting “; or”; and

21 (4) by adding at the end the following new sub-
22 paragraph:

23 “(G) section 4(a)(7).”.