

## Union Calendar No.

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3903

[Report No. 115-]

To amend the Securities Act of 1933 to expand the ability to use testing the waters and confidential draft registration submissions, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2017

Mr. BUDD (for himself and Mr. MEEKS) introduced the following bill; which was referred to the Committee on Financial Services

OCTOBER --, 2017

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

# **A BILL**

To amend the Securities Act of 1933 to expand the ability to use testing the waters and confidential draft registration submissions, 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 “Encouraging Public  
5 Offerings Act of 2017”.

6 **SEC. 2. EXPANDING TESTING THE WATERS AND CONFIDEN-**  
7 **TIAL SUBMISSIONS.**

8 The Securities Act of 1933 (15 U.S.C. 77a et seq.)  
9 is amended—

10 ~~(1) in section 5(d), by striking “an emerging~~  
11 ~~growth company or any person authorized to act on~~  
12 ~~behalf of an emerging growth company” and insert-~~  
13 ~~ing “an issuer or any person authorized to act on~~  
14 ~~behalf of an issuer”; and~~

15 ~~(1) in section 5(d)—~~

16 ~~(A) by striking “Notwithstanding” and in-~~  
17 ~~serting the following:~~

18 ~~“(1) IN GENERAL.—Notwithstanding”;~~

19 ~~(B) by striking “an emerging growth com-~~  
20 ~~pany or any person authorized to act on behalf~~  
21 ~~of an emerging growth company” and inserting~~  
22 ~~“an issuer or any person authorized to act on be-~~  
23 ~~half of an issuer”; and~~

24 ~~(C) by adding at the end the following:~~

25 ~~“(2) ADDITIONAL REQUIREMENTS.—~~

1           “(A) *IN GENERAL.*—*The Commission may*  
2           *issue regulations, subject to public notice and*  
3           *comment, to impose such other terms, conditions,*  
4           *or requirements on the engaging in oral or writ-*  
5           *ten communications described under paragraph*  
6           *(1) by an issuer other than an emerging growth*  
7           *company as the Commission determines appro-*  
8           *priate.*

9           “(B) *REPORT TO CONGRESS.*—*Prior to any*  
10          *rulemaking described under subparagraph (A),*  
11          *the Commission shall issue a report to the Con-*  
12          *gress containing a list of the findings supporting*  
13          *the basis of such rulemaking.’; and*  
14          (2) in section 6(e)—

15               (A) in the heading, by striking “EMERG-  
16               ING GROWTH COMPANIES” and inserting  
17               “DRAFT REGISTRATION STATEMENTS”;

18               (B) by redesignating paragraph (2) as  
19               ~~paragraph (3)~~ *paragraph (4)*; and

20               (C) by striking paragraph (1) and insert-  
21               ing the following:

22               “(1) *PRIOR TO INITIAL PUBLIC OFFERING.*—  
23               Any issuer, prior to its initial public offering date,  
24               may confidentially submit to the Commission a draft  
25               registration statement, for confidential nonpublic re-

1 view by the staff of the Commission prior to public  
2 filing, provided that the initial confidential submis-  
3 sion and all amendments thereto shall be publicly  
4 filed with the Commission not later than 15 days be-  
5 fore the date on which the issuer conducts a road  
6 show (as defined under section 230.433(h)(4) of title  
7 17, Code of Federal Regulations) or, in the absence  
8 of a road show, at least 15 days prior to the re-  
9 quested effective date of the registration statement.

10 “(2) WITHIN ONE YEAR AFTER INITIAL PUBLIC  
11 OFFERING OR EXCHANGE REGISTRATION.—Any  
12 issuer, within the one-year period following its initial  
13 public offering or its registration of a security under  
14 section 12(b) of the Securities Exchange Act of  
15 1934, may confidentially submit to the Commission  
16 a draft registration statement, for confidential non-  
17 public review by the staff of the Commission prior  
18 to public filing, provided that the initial confidential  
19 submission and all amendments thereto shall be pub-  
20 licly filed with the Commission not later than 15  
21 days before the date on which the issuer conducts a  
22 road show (as defined under section 230.433(h)(4)  
23 of title 17, Code of Federal Regulations) or, in the  
24 absence of a road show, at least 15 days prior to the

1 requested effective date of the registration state-  
2 ment.

3 “(3) *ADDITIONAL REQUIREMENTS.*—

4 “(A) *IN GENERAL.*—*The Commission may*  
5 *issue regulations, subject to public notice and*  
6 *comment, to impose such other terms, conditions,*  
7 *or requirements on the submission of draft reg-*  
8 *istration statements described under this sub-*  
9 *section by an issuer other than an emerging*  
10 *growth company as the Commission determines*  
11 *appropriate.*

12 “(B) *REPORT TO CONGRESS.*—*Prior to any*  
13 *rulemaking described under subparagraph (A),*  
14 *the Commission shall issue a report to the Con-*  
15 *gress containing a list of the findings supporting*  
16 *the basis of such rulemaking.’’.*