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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Encouraging Public
Offerings Act of 2017”.

SEC. 2. EXPANDING TESTING THE WATERS AND CONFIDEN-
tIAL SUBMISSIONS.

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

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

(1) in section 5(d)—

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

“(1) IN GENERAL.—Notwithstanding”;

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

(C) by adding at the end the following:

“(2) ADDITIONAL REQUIREMENTS.—
“(A) IN GENERAL.—The Commission may issue regulations, subject to public notice and comment, to impose such other terms, conditions, or requirements on the engaging in oral or written communications described under paragraph (1) by an issuer other than an emerging growth company as the Commission determines appropriate.

“(B) REPORT TO CONGRESS.—Prior to any rulemaking described under subparagraph (A), the Commission shall issue a report to the Congress containing a list of the findings supporting the basis of such rulemaking.”; and

(2) in section 6(e)—

(A) in the heading, by striking “EMERGING GROWTH COMPANIES” and inserting “DRAFT REGISTRATION STATEMENTS”;

(B) by redesignating paragraph (2) as paragraph (3) paragraph (4); and

(C) by striking paragraph (1) and inserting the following:

“(1) PRIOR TO INITIAL PUBLIC OFFERING.—Any issuer, prior to its initial public offering date, may confidentially submit to the Commission a draft registration statement, for confidential nonpublic re-
view by the staff of the Commission prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed with the Commission not later than 15 days before the date on which the issuer conducts a road show (as defined under section 230.433(h)(4) of title 17, Code of Federal Regulations) or, in the absence of a road show, at least 15 days prior to the requested effective date of the registration statement.

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

“(3) ADDITIONAL REQUIREMENTS.—

“(A) IN GENERAL.—The Commission may issue regulations, subject to public notice and comment, to impose such other terms, conditions, or requirements on the submission of draft registration statements described under this subsection by an issuer other than an emerging growth company as the Commission determines appropriate.

“(B) REPORT TO CONGRESS.—Prior to any rulemaking described under subparagraph (A), the Commission shall issue a report to the Congress containing a list of the findings supporting the basis of such rulemaking.”.