

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 6541**

**OFFERED BY M<sup>S</sup>. Waters**

Strike section 2 and insert the following:

**1 SEC. 2. JOBS ACT-RELATED EXEMPTION.**

2 Section 3(b) of the Securities Act of 1933 (15 U.S.C.  
3 77c(b)) is amended—

4 (1) in paragraph (2)(A), by striking  
5 “\$50,000,000” and inserting “\$100,000,000, ad-  
6 justed for inflation by the Commission every 2 years  
7 to the nearest \$10,000 to reflect the change in the  
8 Consumer Price Index for All Urban Consumers  
9 published by the Bureau of Labor Statistics”;

10 (2) in paragraph (2), by adding at the end the  
11 following:

12 “(H) OPERATING COMPANY REQUIREMENT  
13 FOR LARGER OFFERINGS.—

14 “(i) IN GENERAL.—The Commission  
15 shall provide, as a condition to the avail-  
16 ability of any exemption added in accord-  
17 ance with this paragraph, that an issuer  
18 may not offer or sell securities in reliance  
19 on such exemption in an aggregate offering

1 amount that exceeds \$50,000,000 during  
2 any 12-month period, unless the issuer is  
3 an operating company and is not an ex-  
4 cluded issuer.

5 “(ii) OPERATING COMPANY.—For pur-  
6 poses of clause (i), the term ‘operating  
7 company’ means an issuer that, on a con-  
8 solidated basis with any majority-owned  
9 subsidiaries, is primarily engaged in the  
10 active conduct of a trade or business that  
11 produces goods or services, and is not pri-  
12 marily engaged in investing, reinvesting,  
13 owning, holding, or trading in securities,  
14 loans, receivables, derivatives, or other fi-  
15 nancial assets, or in acquiring, holding, fi-  
16 nancing, or leasing real estate for invest-  
17 ment.

18 “(iii) EXCLUDED ISSUER.—For pur-  
19 poses of clause (i), the term ‘excluded  
20 issuer’ means any issuer that is—

21 “(I) a private fund (as defined in  
22 section 202(a)(29) of the Investment  
23 Advisers Act of 1940 (15 U.S.C. 80b-  
24 2(a)(29)));

1 “(II) an issuer that is a special  
2 purpose vehicle, including any issuer  
3 formed for the purpose of acquiring,  
4 holding, or disposing of one or more  
5 specified assets or interests in one or  
6 more entities, and that does not have  
7 substantial operations other than ac-  
8 tivities incidental to such acquisition,  
9 holding, or disposition;

10 “(III) an issuer that is a real es-  
11 tate holding company, including any  
12 issuer that elects to be treated as a  
13 real estate investment trust under sec-  
14 tion 856 of the Internal Revenue Code  
15 of 1986, or any issuer primarily en-  
16 gaged in owning or financing real es-  
17 tate or interests in real estate for in-  
18 vestment;

19 “(IV) an issuer that is a holding  
20 company that does not have substan-  
21 tial operations other than holding se-  
22 curities or other ownership interests  
23 in one or more other persons; or

24 “(V) an issuer that is primarily  
25 engaged in the business of providing

1 financial services, including banking,  
2 lending, insurance, brokerage, dealing,  
3 investment advisory services, com-  
4 modity pool operations, or similar fi-  
5 nancial activities, as determined by  
6 the Commission.

7 “(iv) DISCLOSURE.—The Commission  
8 shall require an operating company offer-  
9 ing securities in excess of \$50,000,000 to  
10 include in its offering statement a certifi-  
11 cation by its principal executive officer that  
12 clause (i) does not apply to such offering,  
13 in such form and manner as the Commis-  
14 sion determines appropriate.”; and

15 (3) in paragraph (5)—

16 (A) by striking “such amount as” and in-  
17 serting: “such amount, in addition to the ad-  
18 justment for inflation provided for under such  
19 paragraph (2)(A), as”; and

20 (B) by striking “such amount, it” and in-  
21 serting “such amount, in addition to the adjust-  
22 ment for inflation provided for under such  
23 paragraph (2)(A), it”.

1 **SEC. 3. SEC STUDY ON REGULATION A UTILIZATION AND**  
2 **MARKET FUNCTIONING.**

3 (a) STUDY.—Not later than 18 months after the date  
4 of enactment of this Act, the Securities and Exchange  
5 Commission (the “Commission”) shall conduct a study, in  
6 close consultation with—

7 (1) State securities regulators (including  
8 through the North American Securities Administra-  
9 tors Association); and

10 (2) the Office of the Advocate for Small Busi-  
11 ness Capital Formation.

12 (b) MATTERS STUDIED.—The study required under  
13 subsection (a) shall examine the principal barriers to effec-  
14 tive utilization of Regulation A (and rules adopted under  
15 section 3(b)(2) of the Securities Act of 1933), including—

16 (1) secondary-market liquidity constraints for  
17 Regulation A securities, including the effects of  
18 State “blue sky” requirements on secondary trading  
19 and quotations;

20 (2) the costs and fixed compliance burdens as-  
21 sociated with Regulation A offerings and ongoing re-  
22 porting, including the role of audit requirements and  
23 scaled disclosure frameworks;

24 (3) “bad actor” disqualification scope, waiver  
25 practices, and any related barriers to capital forma-  
26 tion while maintaining investor protection;

1           (4) the availability, incentives, and regulatory  
2 constraints affecting intermediaries supporting Reg-  
3 ulation A offerings and secondary trading;

4           (5) options to modernize disclosure and market  
5 infrastructure for Regulation A securities, including  
6 improved electronic availability and dissemination of  
7 issuer information and transfer and recordkeeping  
8 practices; and

9           (6) any other structural or market-structure  
10 frictions identified by the Commission, State regu-  
11 lators, or the Office of the Advocate for Small Busi-  
12 ness Capital Formation as contributing to under-  
13 utilization.

14       (c) REPORT.—Not later than 24 months after the  
15 date of enactment of this Act, the Commission shall sub-  
16 mit to the Committee on Financial Services of the House  
17 of Representatives and the Committee on Banking, Hous-  
18 ing, and Urban Affairs of the Senate a report con-  
19 taining—

20           (1) the findings and conclusions of the study re-  
21 quired under subsection (a);

22           (2) recommendations for administrative action  
23 or rulemaking; and

1           (3) recommendations for legislative changes, if  
2           any, to improve small business capital formation  
3           while maintaining appropriate investor protections.

4           (d) PUBLIC INPUT.—In carrying out this section, the  
5           Commission shall provide an opportunity for public com-  
6           ment and may convene a public roundtable or similar pro-  
7           ceeding.



