

Suspend the Rules and Pass the Bill, H.R. 2622, with an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

118TH CONGRESS
1ST SESSION

H. R. 2622

To amend the Investment Advisers Act of 1940 to codify certain Securities and Exchange Commission no-action letters that exclude brokers and dealers compensated for certain research services from the definition of investment adviser, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2023

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

A BILL

To amend the Investment Advisers Act of 1940 to codify certain Securities and Exchange Commission no-action letters that exclude brokers and dealers compensated for certain research services from the definition of investment adviser, 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. EXTENSION OF NO-ACTION LETTER; STUDY.**

4 (a) FINDINGS.—Congress finds the following:

1 (1) The Securities and Exchange Commission
2 staff first granted temporary no-action relief in
3 2017, prior to the implementation of European rules
4 designed to protect European investors from exces-
5 sive costs and conflicts of interest.

6 (2) The Commission staff did not engage in any
7 meaningful cost-benefit analysis of the issues raised
8 by the no-action relief requested either prior to or
9 following the granting of no-action relief in 2017.

10 (3) The Commission staff revised and extended
11 the temporary no-action relief in 2019, again with-
12 out any meaningful cost-benefit analysis of the
13 issues raised by the no-action relief requested prior
14 to or following the granting of the relief.

15 (4) There are currently approximately 15,300
16 registered investment advisers, including affiliates
17 that provide the vast majority of investment re-
18 search.

19 (5) The Commission has received complaints
20 from investors and investor advocacy groups express-
21 ing concerns with the no-action relief, as it currently
22 exists.

23 (6) The Commission has received concerns from
24 broker-dealers related to the potential expiration of
25 the no-action relief.

1 (b) EXTENSION OF NO-ACTION LETTER.—The Com-
2 mission shall provide an additional 6-month extension of
3 the October 26, 2017, Securities Industry and Financial
4 Markets Association, SEC Staff No-Action Letter, set to
5 expire on July 3, 2023.

6 (c) STUDY REQUIRED.—After the announcement ex-
7 tending the expiration date of the no-action letter under
8 subsection (b), the Commission shall conduct, through no-
9 tice and comment, a study of the impact of allowing the
10 no-action letter’s expiration or maintenance of the no-ac-
11 tion letter, and give due regard to any comments received
12 in conducting the study. The Commission or delegated
13 staff shall report their findings and conclusions, including
14 findings related to the expiration of the no-action relief,
15 to the Committee on Financial Services of the House of
16 Representatives and the Committee on Banking, Housing,
17 and Urban Affairs of the Senate.

18 (d) CONTENTS OF STUDY.—The study required
19 under subsection (c) shall include potential impacts on the
20 research market for smaller issuers, including—

21 (1) the availability of such research, includ-
22 ing—

23 (A) the number and types of firms who
24 provide such research;

1 (B) the volume of such research over time;

2 and

3 (C) competition in the research market;

4 (2) any unique challenges faced by minority-
5 owned, women-owned, and veteran owned small
6 issuers in obtaining research coverage;

7 (3) the impact on the availability of research
8 coverage for small issuers due to Commission rules;

9 (4) a cost-benefit analysis of regulatory options
10 that will support research coverage of small entities
11 and increase transparency in the cost of research
12 provided by broker-dealers;

13 (5) the impact of the no-action relief on inves-
14 tors in registered investment companies and exempt
15 investment funds, pension funds, endowments, and
16 other asset owners, investment advisers, broker-deal-
17 ers that provide both investment research and trad-
18 ing services, independent investment advisers that do
19 not provide trading services, broker-dealers that do
20 not provide investment research, and other market
21 participants, including issuers of securities; and

22 (6) the potential impacts of the expiration of
23 the no-action relief on investors in registered invest-
24 ment companies and exempt investment funds, pen-
25 sion funds, endowments, investment advisers, and

1 other asset owners, broker-dealers that provide both
2 investment research and trading services, inde-
3 pendent investment advisers that do not provide
4 trading services, broker-dealers that do not provide
5 investment research, and other market participants,
6 including issuers of securities.