



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 6, 2016
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2357 - Accelerating Access to Capital Act of 2016

(Rep. Wagner, R-MO)

The Administration strongly opposes H.R. 2357, the Accelerating Access to Capital Act. The Rules Committee Print of H.R. 2357 contains the text of H.R. 2357 as reported (Title I), as well as texts of H.R. 4850, the Micro Offering Safe Harbor Act, as reported (Title II), and H.R. 4852, the Private Placement Improvement Act, as reported (Title III). Markets function most efficiently when they are transparent, well-regulated, and trusted by investors and issuers alike. These bills would reduce transparency and inhibit effective regulatory oversight of our capital markets by the Securities and Exchange Commission (SEC). These bills would undermine not only the health and integrity of our markets, but the very capital formation process they claim to promote.

H.R. 2357 (Title I) would weaken investor protections by reducing the quality or availability of information needed to make informed investment decisions. By compelling the SEC to amend Form S-3, the bill would: (1) allow microcap companies traded on an exchange to issue an unlimited number of shares using shelf registration within a 12-month period; and (2) permit unlisted microcap companies, including those listed on the "pink sheets," with less than \$75 million in common equity to sell up to 1/3 of the market value of their common equity using shelf registration in a 12-month period. This bill would harm investors by reducing disclosure requirements and infringe on the SEC's ability to appropriately respond to market developments. Such changes would increase the risks posed by accounting fraud, market manipulation, insider trading, and the sale of artificially-inflated stock.

H.R. 4850 (Title II) would similarly undermine investor protections and the integrity of capital formation for small businesses. Specifically, the bill eliminates all existing investor protections for crowdfunding and Regulation A offerings, provided that the securities: (1) are sold to purchasers with a substantive pre-existing relationship with individuals affiliated with the company, including controlling investors; (2) involve 35 or fewer purchasers; (3) do not exceed more than \$500,000, annually; and (4) do not involve a person who has violated the securities laws. These criteria do not negate the need for consumer protections embedded in current regulations.

This legislation would create yet another unnecessary and unwarranted exemption from the Securities Act of 1933 to enable the sale of microcap offerings (those involving sales of securities valued at \$500,000 or less in a single year) without appropriate regulatory protections. While the legislation would limit the total number of investors in such offerings, it lacks a requirement that those investors have the financial sophistication to understand potential risks of the offering or the financial means to withstand losses. It requires only that they have a "pre-existing relationship" with an officer, director, or major shareholder of the issuer, a condition that provides no meaningful protections.

Finally, H.R. 4852 (Title III) runs counter to SEC efforts to enhance disclosure requirements, limiting the SEC's ability to finalize previously proposed investor protections, and would weaken other key consumer protections and provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Additionally, H.R. 4852 bars the SEC from taking appropriate actions to provide needed oversight of the financial markets, encourages widespread non-compliance with existing SEC filing requirements, and undermines the SEC's informed policymaking.

If the President were presented with H.R. 2357, his senior advisors would recommend that he veto the bill.

* * * * *