AN ACT

To amend the Securities Act of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such Act.

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Small Company Capital Formation Act of 2011”.

6 SEC. 2. AUTHORITY TO EXEMPT CERTAIN SECURITIES.

7 (a) In General.—Section 3(b) of the Securities Act

8 of 1933 (15 U.S.C. 77c(b)) is amended—
(1) by striking “(b) The Commission” and insert-
ning the following:

“(b) ADDITIONAL EXEMPTIONS.—

“(1) SMALL ISSUES EXEMPTIVE AUTHORITY.—

The Commission”; and

(2) by adding at the end the following:

“(2) ADDITIONAL ISSUES.—The Commission
shall by rule or regulation add a class of securities

to the securities exempted pursuant to this section

in accordance with the following terms and condi-
tions:

“(A) The aggregate offering amount of all

securities offered and sold within the prior 12-

month period in reliance on the exemption

added in accordance with this paragraph shall

not exceed $50,000,000.

“(B) The securities may be offered and

sold publicly.

“(C) The securities shall not be restricted

securities within the meaning of the Federal se-
curities laws and the regulations promulgated

thereunder.

“(D) The civil liability provision in section

12(a)(2) shall apply to any person offering or

selling such securities.
“(E) The issuer may solicit interest in the offering prior to filing any offering statement, on such terms and conditions as the Commission may prescribe in the public interest or for the protection of investors.

“(F) The Commission shall require the issuer to file audited financial statements with the Commission annually.

“(G) Such other terms, conditions, or requirements as the Commission may determine necessary in the public interest and for the protection of investors, which may include—

“(i) a requirement that the issuer prepare and electronically file with the Commission and distribute to prospective investors an offering statement, and any related documents, in such form and with such content as prescribed by the Commission, including audited financial statements, a description of the issuer’s business operations, its financial condition, its corporate governance principles, its use of investor funds, and other appropriate matters; and

“(ii) disqualification provisions under which the exemption shall not be available.
to the issuer or its predecessors, affiliates, officers, directors, underwriters, or other related persons, which shall be substantially similar to the disqualification provisions contained in the regulations adopted in accordance with section 926 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 77d note).

“(3) LIMITATION.—Only the following types of securities may be exempted under a rule or regulation adopted pursuant to paragraph (2): equity securities, debt securities, and debt securities convertible or exchangeable to equity interests, including any guarantees of such securities.

“(4) PERIODIC DISCLOSURES.—Upon such terms and conditions as the Commission determines necessary in the public interest and for the protection of investors, the Commission by rule or regulation may require an issuer of a class of securities exempted under paragraph (2) to make available to investors and file with the Commission periodic disclosures regarding the issuer, its business operations, its financial condition, its corporate governance principles, its use of investor funds, and other appro-
priate matters, and also may provide for the suspen-

sion and termination of such a requirement with re-

spect to that issuer.

“(5) ADJUSTMENT.—Not later than 2 years

after the date of enactment of the Small Company

Capital Formation Act of 2011 and every 2 years

thereafter, the Commission shall review the offering

amount limitation described in paragraph (2)(A) and

shall increase such amount as the Commission deter-

mines appropriate. If the Commission determines

not to increase such amount, it shall report to the

Committee on Financial Services of the House of

Representatives and the Committee on Banking,

Housing, and Urban Affairs of the Senate on its

reasons for not increasing the amount.”.

(b) TREATMENT AS COVERED SECURITIES FOR Pur-

poses of NSMIA.—Section 18(b)(4) of the Securities

Act of 1933 (15 U.S.C. 77r(b)(4)) is amended—

(1) in subparagraph (C), by striking “; or” at

the end and inserting a semicolon; and

(2) by redesignating subparagraph (D) as sub-

paragraph (E), and inserting after subparagraph (C)

the following:

“(D) a rule or regulation adopted pursuant

to section 3(b)(2) and such security is—
“(i) offered or sold on a national securities exchange; or

“(ii) offered or sold to a qualified purchaser, as defined by the Commission pursuant to paragraph (3) with respect to that purchase or sale.”.

(e) Conforming Amendment.—Section 4(5) of the Securities Act of 1933 is amended by striking “section 3(b)” and inserting “section 3(b)(1)”.

SEC. 3. STUDY ON THE IMPACT OF STATE BLUE SKY LAWS ON REGULATION A OFFERINGS.

The Comptroller General shall conduct a study on the impact of State laws regulating securities offerings, or “Blue Sky laws”, on offerings made under Regulation A (17 CFR 230.251 et seq.). The Comptroller General shall transmit a report on the findings of the study to the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than 3 months after the date of enactment of this Act.

Passed the House of Representatives November 2, 2011.

Attest:                KAREN L. HAAS,

                         Clerk.
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To amend the Securities Act of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such Act.

November 7, 2011

Read the second time and placed on the calendar

Calendar No. 222