

Union Calendar No. 105

118TH CONGRESS
1ST SESSION

H. R. 2622

[Report No. 118–134]

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

JULY 11, 2023

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 13, 2023]

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:*

5 *(1) The Securities and Exchange Commission*
6 *staff first granted temporary no-action relief in 2017,*
7 *prior to the implementation of European rules de-*
8 *signed to protect European investors from excessive*
9 *costs and conflicts of interest.*

10 *(2) The Commission staff did not engage in any*
11 *meaningful cost-benefit analysis of the issues raised*
12 *by the no-action relief requested either prior to or fol-*
13 *lowing the granting of no-action relief in 2017.*

14 *(3) The Commission staff revised and extended*
15 *the temporary no-action relief in 2019, again without*
16 *any meaningful cost-benefit analysis of the issues*
17 *raised by the no-action relief requested prior to or fol-*
18 *lowing the granting of the relief.*

19 *(4) There are currently approximately 15,300*
20 *registered investment advisers, including affiliates*
21 *that provide the vast majority of investment research.*

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

1 (6) *The Commission has received concerns from*
 2 *broker-dealers related to the potential expiration of*
 3 *the no-action relief.*

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

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

21 (d) *CONTENTS OF STUDY.—The study required under*
 22 *subsection (c) shall include potential impacts on the re-*
 23 *search market for smaller issuers, including—*

24 (1) *the availability of such research, including—*

1 (A) the number and types of firms who pro-
2 vide such research;

3 (B) the volume of such research over time;
4 and

5 (C) competition in the research market;

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

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

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

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

24 (6) the potential impacts of the expiration of the
25 no-action relief on investors in registered investment

1 *companies and exempt investment funds, pension*
2 *funds, endowments, investment advisers, and other*
3 *asset owners, broker-dealers that provide both invest-*
4 *ment research and trading services, independent in-*
5 *vestment advisers that do not provide trading serv-*
6 *ices, broker-dealers that do not provide investment re-*
7 *search, and other market participants, including*
8 *issuers of securities.*

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